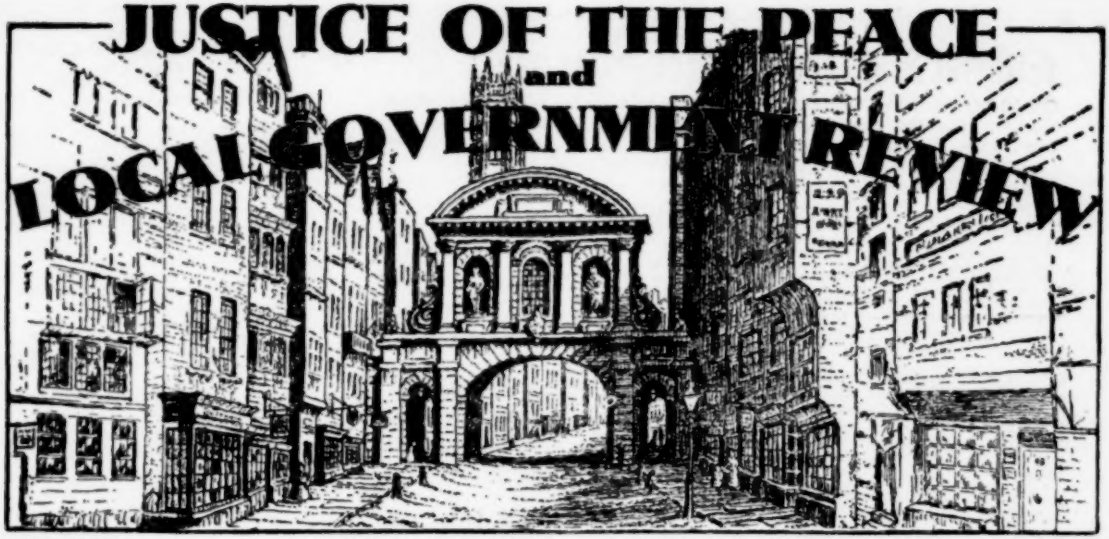

VOL. CXVI LONDON: SATURDAY, JANUARY 12, 1952 No. 2

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Latest time for receipt 10 *a.m. Thursday*

Published by JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex

Telephone : CHICHESTER 3637 (P.B.E.) *Telegraphic Address* : JUSLOCGOV, CHICHESTER

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EAST RIDING OF YORKSHIRE COUNTY COUNCIL

Assistant Solicitor

APPLICATIONS are invited for the above appointment from solicitors, of not less than two years' standing, who have a preference and ability for conveyancing work. The commencing salary will be in accordance with qualifications and experience (which need not include local government practice), with a minimum of £685 per annum. Annual increments will be in accordance with the National Joint Council's A.P.T. Scales VII and VIII (£685 to £810 per annum). The National Joint Council's Conditions of Service as adopted by the County Council will apply. The appointment will be to the permanent staff and superannuable, and will be subject to three months' notice. The selected applicant will be required to pass a medical examination before appointment.

Applications endorsed "Assistant Solicitor" stating age, qualifications and experience, must reach the undersigned not later than February 8, 1952, and should give the names and addresses of three persons to whom reference may be made. Canvassing or failure to disclose any known relationship to a member or senior officer of the Council will disqualify.

T. STEPHENSON,
Clerk of the County Council.

County Hall,
Beverley.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Senior Probation Officer

APPLICATIONS are invited for the appointment of a Senior Probation Officer. Applicants must be serving Probation Officers with experience. Salary according to Probation Rules 1949/1950, with £30 per annum Metropolitan addition and seniority allowance, at present £50 per annum. Subject to superannuation deductions, and medical assessment. Motor car allowance provided. Application forms from the undersigned to be returned by January 26, 1952 (quoting K.297 J.P.).

C. W. RADCLIFFE,
Clerk to the Probation Committee.

Guildhall,
Westminster, S.W.1.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Male and Female Probation Officers

APPLICATIONS are invited for the appointment of Male and Female Probation Officers. Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving Probation Officer. Salary according to Probation Rules, 1949/50, with £30 per annum Metropolitan addition. Subject to superannuation deductions, and medical assessment. Motor car allowance provided. Application forms from the undersigned to be returned by January 26, 1952 (quoting K.290 J.P.).

C. W. RADCLIFFE,
Clerk to the Probation Committee.

Guildhall,
Westminster, S.W.1.
December, 1951.

LANCASHIRE No. 8 COMBINED PROBATION AREA

APPLICATIONS are invited from male probation officers for appointment as Senior Probation Officer in the above area.

The appointment will be in accordance with the provisions of the Probation Rules, and there will be an additional allowance of £50 per annum.

Applications should reach the undersigned on or before January 26, 1952.

J. H. WHITTINGHAM,
Clerk to the Committee of the above Area.

Borough Justices' Clerk's Office,
The Courts, Bolton.

HAVANT AND WATERLOO URBAN DISTRICT COUNCIL

Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary (according to date of admission) in accordance with Grade A.P.T. V(a)—VII of the National Joint Council's scale of salaries. Previous local government experience not essential. The appointment will be subject to the Local Government Superannuation Act, 1937, and a medical examination will be required.

Applications, with names of two referees, must reach the undersigned not later than January 19, 1952.

Canvassing will disqualify.

B. R. W. GOFTON,
Clerk of the Council.

Town Hall,
Havant.
December 24, 1951.

BOROUGH OF LLANELLY

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors with wide municipal experience for the appointment of Town Clerk at a salary of £1,000 per annum, rising by five yearly increments of £50 to a maximum of £1,250. The post also carries with it the office and duties of Clerk to the Llanelly Harbour Trust.

The successful candidate will be required to devote the whole of his time to the statutory and other duties of the post and all fees and other emoluments must be paid by him into the Rate fund.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937 ; a satisfactory medical examination, and termination by two months' notice in writing by either party.

Applications, endorsed "Town Clerk," stating age, qualifications, appointments and experience, and accompanied by copies of two recent testimonials, must be received by the undersigned not later than January 26, 1952.

J. E. V. TAYLOR,
Acting Town Clerk.

Town Hall,
Llanelly.
December, 1951.

COUNTY BOROUGH OF DARLINGTON

Appointment of Second Assistant to Clerk to the Justices

APPLICATIONS are invited for the appointment of a second assistant to the Clerk to the Justices.

Applicants should have general magisterial experience ; be able to keep the accounts, court registers, etc., and take depositions. Shorthand and typewriting being essential.

Salary in accordance with the scale of Clerical Division of National Charter (£445-£490).

The successful candidate will be required to pass a medical examination and be a contributor to the Superannuation Fund. Applications, stating age and experience with copies of two testimonials, to the undersigned, to reach him by January 21, 1952.

JNO. W. WALKER,
Acting Clerk to the Justices.

10 Houndgate,
Darlington.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXVI. No. 2. LONDON: SATURDAY, JANUARY 12, 1952 Price 2s. 3d. (including Reports)
Pages 17-32 Offices: Little London, Chichester, Sussex. [Registered at the General Post Office as a Newspaper] Price 1s. 3d. (without Reports)

NOTES of the WEEK

Enforcement of Maintenance Orders

The Law Times of December 21 contains a lengthy and important letter, signed "Litigus Seperationis," upon the subject of the enforcement of High Court maintenance orders.

The writer shows how, under present conditions a wife with such an order is quite likely to experience a delay of many months in attempting to enforce arrears, and even then to find the process of the court comparatively ineffective.

The writer suggests that the present position could be much ameliorated if the district registrars were given powers of commitment. He contrasts the position of the former wife who has a High Court maintenance order with that of one who has obtained an order in a magistrates' court.

The letter concludes "In the alternative, if the granting of such powers to a district registrar is frowned upon by the powers that be, the maintenance action could be brought in a police court after decree absolute is obtained, and the matrimonial issues disposed of, as surely the question of maintenance or custody might well be dealt with in those courts, with speedy remedies for any default in payment, and little or no expense to the petitioning wife, or the respondent. A divorce judge could easily remit the questions to a police court when making his order on the divorce suit."

These suggestions merit careful consideration and perhaps they may be brought to the notice of the present Royal Commission. It cannot be pretended that even in the magistrates' courts a wife is always able to enforce arrears under a magisterial order, but we think it can be claimed that on the whole the method of enforcement works with the least possible delay and expense. Orders are almost invariably made payable through the collecting officer, and heavy arrears are not often allowed to accumulate. The husband can easily be made to realize that if he fails to pay he will have to satisfy the court that this is not through his wilful refusal or culpable neglect, or else he may be sent to prison. The magistrates' court is a convenient local court for dealing with the enforcement and variation of such orders, and, given a sufficient staff, such a court can make the machinery of the law effective.

Deodands

The suggestion made in the course of a wireless discussion about road accidents, that there should be a revival of the old law which made forfeit any vehicle which had killed a human being, recalls the law as to deodands, which were not abolished by statute until 1846. A deodand was defined as "Any personal chattel which is the immediate occasion of the death of any reasonable creature: which was formerly forfeited to the King, to be applied to pious uses, and distributed in alms by his high almoner, though in earlier times it was destined to a more superstitious purpose."

Professor Kenny, in his *Outlines of Criminal Law*, refers to "the 'piacularity' attached in ancient Greece to even inanimate instruments of death, as when, according to Pausanias the Prytanes at Athens condemned to penal destruction lifeless objects that had accidentally slain a man—a feeling which appears in the 'Deodand' of the old English law of homicide." He goes on to say that the law of deodands was enforced even where death was due to some mere natural accident, as in the case of a man's falling from a boat and being drowned; and, as showing how far the principle was carried, he cites the case of a small boy who fell into a pan full of milk and was drowned, whereupon the pan was forfeited. Professor Kenny adds the interesting statement that the abolition of deodands was hastened by the fear of entire railway-trains being forfeited. In early times there was sometimes much argument as to whether, for example, a wagon should be forfeited or only the wheel which had passed over and killed the deceased.

Modern law, both criminal and civil, is, we think quite capable of dealing with these matters without revival of an ancient law which must often have worked inequitably.

Probation in Surrey

The report of the county probation committee for Surrey for the year 1951 records the making of a new Combined Area Order under which the committee is now operating. One important point is that the committee now has the power to delegate to a sub-committee the duty of appointing probation officers and of approving a limited expenditure for particular purposes. The report discusses the pros and cons of this new arrangement, pointing out that while some members of the committee not unnaturally feel regret at the delegation of an interesting part of their work involving personal contacts, it is of undoubted advantage from the purely administrative point of view to make use of a sub-committee.

The report expresses some disappointment in that the number of cases on probation in the under fourteen age group has shown a tendency to increase in spite of an overall decrease.

No doubt this feeling is well founded, as those who have compiled the report will know the figures as to cases brought before the court and the number of convictions of persons in the various age groups. The mere fact that the number of persons placed on probation showed an increase might mean only that a freer use was being made of the power to make probation orders, and not necessarily that there had been an actual increase in crime.

As to the over seventeen age group, the report says :

" In 1939 there were 520 males over the age of seventeen on probation. The number is now a hundred less, and there can be little doubt that for this conscription is mainly responsible. Some potential offenders may be kept out of trouble and lads on national service who have committed offences are not suitable subjects for probation."

There has been an increase in the number of women and girls placed on probation in recent years, but, as the report rightly points out, this may be due in part to the increase in the number of women probation officers and does not necessarily indicate an increase in criminality among females.

The number of persons who have been reconvicted or who have failed to comply with the terms of the order remains as in previous years at just over six *per cent.*

Good Behaviour

Under the Probation of Offenders Act, 1907, every person placed on probation entered into a recognizance which included a condition to be of good behaviour. The Criminal Justice Act, 1948, abolished the need for a recognizance and gave the court a general power to insert requirements. Present practice varies as to the insertion of certain requirements in all orders, some still including requirement to be of good behaviour.

The report of the Surrey Probation Committee, signed by its chairman, Brigadier A. C. C. Willway, comments on this as follows :

" It has apparently become the practice to omit all reference to good behaviour in the new probation order and to be content with the requirement that the probationer should lead an honest and industrious life. It is not difficult to imagine cases in which a probationer is working hard and honestly but his behaviour in other respects is far from good, and is of a character not unlikely to lead him eventually into dishonest ways. The Chief Probation Officer considers that it would strengthen the hands of the supervising officer if such requirement were entered in all orders. It would certainly not conflict with the Act which contemplates 'such requirements as the court consider necessary for securing the good conduct of the offender,' and it is understood that no objection at all would be taken by the Home Office if such a clause were included in all orders."

Exactly what the expression " good behaviour " means is not clearly laid down in text books, although *Stone* gives some help in this matter. At all events difficulties are not likely to arise often through the use of the expression in probation orders as experience over many years has shown.

Probationers Undergoing Mental Treatment

Since s. 4 (4) of the Criminal Justice Act, 1948, states that while the probationer is under treatment as a voluntary patient or as a resident patient in pursuance of a requirement of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such extent only as may be necessary for the purpose of the discharge or amendment of the order, it might be supposed that such cases would involve little work for probation officers. In Surrey, there are many mental institutions and a number of patients are under the supervision of Surrey officers. The report states :

" It was at one time thought that during the period of residence the duties of probation officers in respect of them would be quite nominal, but it has not proved so in practice. The authorities of the institutions make frequent calls upon the officer for his advice and assistance when difficulties arise in the course of the treatment and it would be a mistake to suppose that such cases take up any less of the officer's time than the normal case, while they no doubt provide him with exceptionally difficult situations with which to deal."

Summary Jurisdictionism

A psychiatrist, reporting on a delinquent, wrote : " He does not impress me as a definite psychotic clinically . . . hospitalization is not indicated at present." The court at first considered that prisonization was the appropriate treatmentalism, but eventually decided that domiciliarization was more suited to the prisoner, who was duly probationalized.

An Imprecise Limit

A curious point, upon which we have found no precedent, arose recently before the Lake District rent tribunal under the chairmanship of Mr. I. G. Sim, J.P. Section 1 of the Landlord and Tenant (Rent Control) Act, 1949, excludes from its field of operation, by subs. (7)(*b*), a rent which is subject to a limitation imposed by or under any enactment not contained in the Act of 1949 itself or the Rent Restrictions Acts. There are several such limitations ; the one in question in the case before us was that which can be imposed under s. 7 of the Building Materials and Housing Act, 1945. The house whose rent the tribunal had to consider had been erected under a civil building licence, by a condition of which the local authority concerned had limited the sale price and purported to limit the rent which might be charged, but it had done the latter by a condition that the house should not be let until an application had been made to the council to determine its maximum rent. It was stated in the course of the proceedings that a purported limitation in this form had been recommended at one time in a communication from the Ministry of Health, but that in May, 1950, further advice had been sent out, to the effect that a limitation of rent taking effect under s. 7 of the Act of 1945 ought to name a figure—a conclusion which we should certainly support. In the Lake District case the tribunal held that the purported limitation before them was not a limitation within the meaning of the excluding paragraph in s. 1 (7) of the Act of 1949. At the time when the application came before them, the rent lawfully chargeable had not been limited at all. In Mr. Megarry's book on the Rent Restrictions Acts he cites *R.* v. *Barnet Rent Tribunal, ex parte Reeds Investments, Ltd.* [1950] 2 All E.R. 848 ; 114 J.P. 505, for the proposition that, if no limitation of rent has been effectively imposed, the mere registration of a purported limitation as a local land charge does not exclude the Act of 1949. The essential word here is " effectively "—both with Mr. Megarry and with the Lake District tribunal. We agree with them that insertion in a civil building licence of a condition, under which the licensee has to come back to the local authority at a future date to ask for the fixing of a rent, does not accord with the intention of s. 7 of the Act of 1945 ; nor does it seem to be either businesslike or satisfactory in practice.

Service by Post

The decision of Mr. Justice Devlin given in *T.O. Supplies (London) Ltd.* v. *Jerry Creighton Ltd.* [1951] 2 All E.R. 992, on the meaning of " service by post," removes a doubt which has

existed for many years. In this case, the plaintiffs issued a writ against the defendants, and availed themselves of the procedure afforded by s. 437 of the Companies Act, 1948, which provides that " A document may be served on a company by leaving it at or sending it by post to the registered office of the company." Subsequently, in the absence of an appearance by the defendant company, the plaintiffs signed judgment in default of appearance and issued execution. At a later date, Master Burnand made an order that the judgment and execution be set aside on the ground that the service of the writ was bad in that it was sent by registered post instead of prepaid ordinary post, and against this order the plaintiffs appealed. Mr. Justice Devlin said that he had been told that the master's order was in accordance with the practice, and accordingly, as there was no authority on the point, great weight would have to be accorded to the settled practice. In the end, however, the matter would have to be determined on the construction of the relevant statutes. The words of s. 437 of the Companies Act, 1948, did not limit the word " post " by stating that it meant either registered or ordinary prepaid post. It appeared to him that the word " post " in its ordinary and natural meaning was wide enough to cover both registered and ordinary post, and he did not think that it was possible to limit it to the one or the other. It was clear from the words that the legislature had repeatedly used in earlier Acts that " post " in the Act of 1948 referred to post in the ordinary sense of the term and was not limited to either registered or ordinary prepaid post. He had been referred to s. 26 of the Interpretation Act, 1889, and he added that in his opinion that Act also did not intend to show any distinction between registered and ordinary post.

A Christmas Evil

Members and officers of local authorities are not more concerned than other members of the public with the problem of tipping in hotels and restaurants, though they are, in their public capacity, more concerned with it than they were some years ago, by reason of their being more often called upon in the course of public duty to spend time in London or at other central meeting places. They may, like other members of the British public and visitors from overseas, legitimately wish that the commercial and industrial interests concerned, and the quasi-governmental agencies which now have a finger in the catering pie, would agree upon authoritative guidance, but, on the local government side, this is as far as members and officials are concerned with the tipping problem in hotels and restaurants. They are much more directly concerned with a parallel problem, which flared up in several places as Christmas was approaching. For generations past, probably as long as there has been any organized system of collecting house refuse, either by municipal employees or through contractors, it has been customary for the man who did the work to receive Christmas presents from householders. Many local authorities have brought it to the notice of the public, some by warnings painted on the dustcarts, that the men were not allowed to receive gratuities but, even where these warnings have been given, it was impracticable (and usually not seriously attempted) to stop the receipt of Christmas boxes. Most householders had no strong objection to the system, so long as it was felt to be a matter of custom, of goodwill, and of the voluntary giving and receiving of a present. In some areas the custom has nevertheless more or less died out, with the acquiescence (or it may be through a deliberate effort) of the men concerned—just as it seems that the previous organized claim to Christmas boxes by postmen has now fallen into disrepute through an increased sense of dignity on the part of the postmen and their unions. In some areas, however, the collection of Christmas boxes by the dustmen has continued to the present day : in some it has reached the pitch of letting it be seen by householders that the men make lists of the houses from which no present is forthcoming. There is not, perhaps, much difference in theory, between this and the making of a list of houses from which a present has been given, which latter practice is an obvious safeguard to all parties—a safeguard, to the men against the illicit collecting of tips in advance of the regular date, and a safeguard to the householder against being worried twice or thrice over. The making of a list of barren houses does, however, suggest, albeit illogically, something in the nature of a threat ; there have been cases of actual threatening and abuse, particularly of women householders in London who told the dustmen that they could no longer afford to contribute to the Christmas fund. Complaints at Birkenhead of the making of a list, which some householders regarded as a black list, destined to form the basis of future neglect on the dustmen's part, led to an attempt to enforce the council's rule by dismissal of a man who was said to have offended. It was not altogether surprising that the dismissal led to a strike by other men, which was called off after talks were initiated about the whole position.

A dinner at Paddington given by the council's dustmen and their wives, with the mayor and mayoress as their guests of honour, suggests that (in Paddington at all events) the men are not merely contented with the conditions of their employment but are reasonably prosperous. The habit of Christmas boxes, which began under conditions very different from those prevailing at the present day, might now be considered by the local government associations and trade unions concerned. What was tolerable as a custom, when followed by comparatively well-to-do householders, may be a burden for struggling householders under modern conditions, and, with the present day machinery for determining a reasonable wage for the work performed, there is much less reason than there may have been a generation back, for supplementing this by voluntary contributions. The matter is not one which can be settled by the individual local authority any more than by the individual householder. It calls for negotiations, and a sensible adjustment to the conditions of today over as wide a field as possible.

Stiles and Squeezes

We print elsewhere in this issue a letter from the Commons, Open Spaces and Footpaths Preservation Society, suggesting that in answering P.P. 3 at p. 500 last year we ought to have called attention to s. 56 (4) of the National Parks and Access to the Countryside Act, 1949. That subsection says that, where the owner, lessee, or occupier of agricultural land, or land which is being brought into use for agriculture, represents to the highway authority that it is expedient for reasons given in the subsection that stiles, gates, or other works for preventing the ingress or egress of animals should be erected upon a public path crossing the land, the highway authority may authorize the erection of the stiles, gates or other works. Authorization so given may be subject to conditions, for enabling the right of way to be exercised without undue incovenience to the public—the change from " a public path " to " the right of way " may be nothing but a shift of phrase, but it may be significant : we shall return to it below. The word stile, not being defined in the Act, will *prima facie* mean whatever it means in ordinary speech, unless an extending or limiting effect is found in the context. The section speaks not only of stiles and gates but of other works ; it is therefore necessary to consider also what these last may be. They are presumably something of the nature of stiles and gates : a meaning can be attached to the reference to " other works," by thinking of such constructions as cattle grids, or the arrange-

ment of railings sometimes called a zigzag. The point we are here making is that we doubt whether the subsection applies to the sort of construction which, in the Practical Point above mentioned, was given the popular name of "a squeeze-through stile." No doubt this is a common enough phrase, but we had understood the "stile" in the subsection to be the sort which has to be climbed over: over which lame dogs for the past five centuries have thus needed help—this etymological and still primary meaning seems most consistent with the context. For reasons we explained in answering the Practical Point, a squeeze-through opening (to give it a neutral name) can be so made as not to obstruct the normal pre-existing right of way along a public footpath, which should not be presumed to be at every point available for two persons or more to walk abreast: the landowner, who hypothetically brought the right of way into existence by dedication, would have dedicated as little as would serve the purpose. This hypothesis can be displaced by showing that more was dedicated than would suffice for one person at a time, but, in the great run of dedications implied from acquiescence, a space allowing normal human divagation and intercourse between passengers along most of its length, but here and there only wide enough to allow human beings to pass one at a *time*, will satisfy the implication. If we are so far right, the enclosing of that space here and there by posts, not allowing farm animals to pass, is no obstruction—as we said in our answer last year. The subsection does not declare that anything is to be considered an obstruction: it pre-supposes an obstruction, and empowers the highway authority to authorize it, with or without imposing conditions. If that which is proposed is no obstruction at common law or under earlier Acts, there is nothing needing to be authorized and *prima facie* therefore subs. (4) does not apply. We have already mentioned that the subsection speaks first of erecting stiles, gates, or works on a public footpath, and then speaks of enabling "the right of way" to be exercised. This seems to us to support the view that the subsection is not dealing with more of the path than is necessary to the exercise of the right of way, so that we come back once more to the conclusion that the subsection does not apply to the erection of fencing, even upon that part of the surface of the land which by dedication has been converted into a public path, so long as sufficient width of path is left for human passage. We are not suggesting that a landowner can run a fence up his path longitudinally, pleading that there is still room for one person at a time: we have negatived such a suggestion in answering an earlier Practical Point apart altogether from the Act of 1949—and see what is said above about the normal divagation of the pedestrian and normal conversation. We are dealing here strictly with s. 56 (4) and with the particular point of squeeze-through openings. The point is interesting, and is also important to the agricultural community—more so to those engaged in agriculture than to pedestrians who may use the path. It might be possible to arrange, at comparatively small expense, for a test case in the Divisional Court. Any opinion expressed by the Commons, Open Spaces and Footpaths Preservation Society upon a point of highway law is worthy of respect, and we have therefore dealt with their present point at length, but (as at present advised) we think their interpretation of the subsection goes further than its language warrants, and involves putting agriculturalists at the mercy of the highway authority in a matter where it is not necessary to the interest of other members of the community that the highway authority should be brought in.

ADULTERY AND MAINTENANCE

The statement that a man is not bound to maintain a wife who has committed adultery is obviously too general to be accepted without qualification. It is, however, true that such a wife has usually some difficulty in obtaining maintenance under a court order.

So far as magistrates' courts are concerned, s. 6 of the Summary Jurisdiction (Married Women) Act, 1895, provides: "No orders shall be made under this Act on the application of a married woman if it shall be proved that such married woman has committed an act of adultery: Provided that the husband has not condoned or connived at, or by his wilful neglect or misconduct conduced to such act of adultery." It seems to follow, therefore that a wife who has to admit having committed adultery has the onus of proving that she is entitled to pray in aid the proviso to the section.

A wife who, having obtained an order, thereafter commits an act of adultery, is dealt with in a different way. Section 7 of the Act of 1895 requires that upon proof of such adultery, the order shall be discharged. By an amendment inserted by s. 2 of the Summary Jurisdiction (Separation and Maintenance) Act, 1925, it was enacted that: "If the court thinks fit it may refuse to discharge the order if, in the opinion of the court, such act of adultery as aforesaid was conduced to by the failure of the husband to make such payments as in the opinion of the court he was able to make under the order."

It is to be noticed that the wife who has obtained an order and thereafter commits adultery can retain her maintenance on one ground only, and that at the discretion of the court. So long as husband and wife are living apart and a magisterial order is in existence the wife cannot be entitled to the society and protection of her husband, and if he complies, or even does his best to comply, with the maintenance order, she will lose the benefit of it if she commits adultery. If on the other hand, when no such order is in existence, and she is presumed to be entitled to his society and protection, she commits adultery, it is open to her to plead in her own defence condonation, connivance or wilful neglect or misconduct by her husband.

There is also the question of maintenance of a wife if the husband obtains an order on the ground of her adultery. Can the husband be ordered to pay her maintenance? Section 11 (2) of the Matrimonial Causes Act, 1937, states that upon such proceedings "The powers of the court under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, shall include power to make, upon any such application, any one or more of the orders set out in section five of the Licensing Act, 1902." Those powers are to make "One or more orders containing all or any of the following particulars: (*a*) A provision that the applicant be no longer bound to cohabit with his wife (which provision while in force shall have the effect in all respects of a decree of judicial separation on the ground of cruelty); (*b*) A provision for the legal custody of any children of the marriage; (*c*) A provision that the applicant shall pay to his wife personally, or for her use to any officer of the court or other person on her behalf, such weekly sum not exceeding £2 as the court, having regard to the means both of the applicant and his wife, consider reasonable . . ." It seems clear, therefore, that the court may, in its discretion, award

maintenance to a wife where the husband applies for relief on the ground of his wife's adultery. In dealing with all applications under s. 11 of the Act of 1937, however, the court may not make an order "Unless it is satisfied that the applicant has not condoned or connived at, or by his or her wilful neglect or misconduct conduced to, the adultery, and that the application is not made or prosecuted in collusion with the other party to the marriage or other person with whom it is alleged that adultery has been committed." This will mean that the husband applicant who cannot so satisfy the court will not obtain a separation order, and equally it follows that there will be no maintenance order. In such case the wife will possibly be able to obtain a maintenance order upon the ground of desertion or wilful neglect to maintain, in spite of her adultery.

On the whole, it may be that in many cases a husband who can prove that his wife has committed adultery will prefer not to bring proceedings in the magistrates' court, but will simply refuse to pay his wife any maintenance, while possibly paying a reasonable sum for the maintenance of any children of the marriage, leaving his wife to make the first move if she thinks she can bring her case within the proviso to s. 6 of the Act of 1895.

It is helpful to know what is the position of a wife who has committed adultery where the proceedings are in the High Court. *Rayden On Divorce*, 5th edn., p. 482 states that it used not to be the practice to permit a guilty wife to petition for maintenance, but that the court has an absolute discretion, and occasionally makes the granting of a small allowance a condition precedent to the pronouncing of a decree absolute in favour of a husband. This is treated as a compassionate allowance, and the proviso *dum sola et casta vixerit* is usually, though not always, inserted.

Consideration of the various sections shows that magistrates have a sufficient discretion which, exercised wisely, should enable them to do justice between the parties. Probably there are few cases in which a husband applicant who proves uncondoned adultery by his wife and whose own conduct is blameless would be ordered by magistrates to maintain the guilty wife or, at the most, to pay more than a very small allowance on compassionate grounds. Indeed, it would almost certainly be argued that in such circumstances the husband ought not to be ordered to pay maintenance, since the wife could not obtain an order and if she had already obtained an order and her husband was paying or doing his best to pay, the order would have to be discharged on proof of an act of adultery.

THE NEW HOUSING POLICY

A circular numbered 73/51 was issued from the Ministry of Housing and Local Government at the end of November, 1951, setting out, in summary form, the intentions of the new Government about the building of houses under licence, and houses for owner occupiers. The topic was debated in Parliament soon afterwards, and has since been discussed by many local authorities, so that perusal of a large variety of country newspapers has given by now some indication of prevalent opinion, among the people on whom the Government relies to carry out its policy. While discussion in Parliament chiefly followed party lines, as was only natural, local authorities have been free to make their decisions on their view of local merits, and some, whose majorities were of the same complexion as the Government, have preferred not to change the line they were following before. The three main objects stated by the Minister were the maintenance of an adequate supply of houses available for letting to families in need of houses; a greater discretion to individual local authorities to meet the varied needs of different districts, and the encouragement of house ownership for those who wish to acquire their own homes. Of these three objects, nobody doubts the necessity of the first, though opinions may differ about the method of achieving it, and no local authority will resist having discretion to meet the needs of its own district, even though it may exercise that discretion in a way not desired by the Government. The third object, or rather the question whether house ownership ought to be encouraged, rouses acute divergence of opinion. The total number of houses which can be allocated to local authorities will be reviewed from time to time in the light of actual building progress, and the Minister does not desire that there should be any disturbance in the arrangements which local authorities may have already made for building houses in 1952. He has, however, decided that the time has now come when the distribution of houses allocated as between houses to be built by the local authority and houses to be built under licence can to a larger extent be left to each local authority to determine, in the light of their knowledge of the needs of the district, and that it should now be open to each local authority after considering the needs of its own district to issue licences up to a maximum of one-half of their 1952 allocation. Arrangements for the following year will be reviewed in the light of experience of the first year's working. Houses may be built under licence either for letting or for sale. When it is proposed to build houses for letting it will often not be possible to identify in advance the actual persons who are to occupy the houses, though it will usually be possible to ascertain for what kind of worker the house is intended. When houses are to be built for sale licences should not be issued in respect of houses for sale to unknown purchasers. Houses built under licence must go (says the Minister), and be seen to go, to persons with a housing need comparable to that served by houses built by the authority. This last is exceedingly important and, to judge from the daily press, has been perhaps the biggest source of anxiety about the Government's new proposals. How, it is asked, can a man who is homeless (it may be) but financially in a position to buy a house be (in respect of need) in a position comparable with that of a man who has neither home nor money? Attempts to support the Government's decision at this point have been apt, rather, to slide away from the comparison of needs.

There are several reasons, good reasons in the eyes of ordinary people who feel no theoretical hostility towards ownership of property, for encouraging as many persons as can afford to do so to acquire the ownership of their houses, and the Government's new line is more easily defended by those reasons than by what they have said themselves upon comparison of need.

One very welcome feature of the new decisions is that (apparently) more use is now to be made of the National Housebuilders Registration Council, of 82 New Cavendish Street, London, W.1. While the plans and outline specification of each house should be approved by the local authority, the general specification and the amount of supervision exercised

should be equivalent to those laid down in the scheme operated by that Council, of whose activities we spoke with approbation years ago. There is here an attempt by the building trade itself to eliminate recognized evils, and as a public service to set up by its own efforts new standards of quality, and we have regretted much that the stress laid for some years upon local authority building should have so nearly deprived the trade of the chance to improve its own performance for itself.

The criterion of "need" finds its corollary in the rule that the maximum superficial area of a house built under licence should be 1,500 square feet. In determining the size and type of house to be built under licence the local authority should have regard to the size and composition of the family for whom it is intended. In other words, the rich man working within this framework must still be content with a small house, and if his family is small the house he is allowed to build may be even smaller than the maximum. Moreover, every house in respect of which a licence is issued must be subject to a limit of building cost, and to a condition prescribing the maximum selling price and rent chargeable. The figure included in the licence itself is the amount of expenditure authorized to be incurred in pursuance of the licence, by the person to whom the licence is issued. In determining the figure to be included in the licence the local authority should have due regard to the cost of building council houses in the district, but should make suitable allowance for differences in size, for any special circumstances arising out of the cost of building on particular sites, *e.g.*, building in stone to harmonize with a neighbouring village or when the cost of the land or its development is abnormal, or for the specification to which the house is proposed to be built, or for any other differences in conditions which appear to them to be relevant. One way in which cost will be driven up (if that way is adopted by the building owner) will be the encouragement which local authorities are exhorted to give to proposals for using materials alternative to those known to be scarce. By doing so they will diminish the drain upon materials required for their own houses. Similar considerations apply to the use of alternative fittings and equipment for the houses. Where such proposals are received and involve additional cost the authority should recognize this factor in fixing the amount of expenditure authorized by the licence.

It will be remembered that in the time of the late Government there was some hesitation about admitting a link between supplementary building licences and increased selling price or rental limits: *see* 115 J.P.N. pp. 681 and 693. In fact, they seemed at first almost secretive on this matter. The new Government have come into the open about this; it is interesting and possibly significant that Mr. Marples, M.P., now the Parliamentary Secretary of the Ministry of Housing and Local Government, was the member of Parliament who elicited from Mr. Dalton, the then Minister of Local Government and Planning, the reply given in our article at p. 963 last year. Mr. Macmillan's new announcement on this matter says that there are circumstances in which it will be proper and desirable to issue a supplementary licence. The holder of the licence may be put to unavoidable expenditure between the time when the licence is issued and the completion of the house, *e.g.*, there may be rises in the ruling rates of wages and materials, or it may be found necessary or desirable to substitute more expensive materials or equipment during the building of the house. It is emphasized, as we said at p. 693, that supplementary licences, where necessary, must be sought and issued before the works are completed, and the authority should take such appropriate action as they can to deal with this matter. The approved maximum sale price is to be determined by the authority, and should represent what in their opinion is the fair price for the completed house based on the cost of building, land, development, and incidental costs. When a supplementary licence is issued the Minister is advised that it is competent to the authority to reassess and restate the maximum selling price on the supplementary licence: a corresponding entry should be made in the register of local land charges. Attention is also drawn to the provisions of s. 43 (1) and (5) of the Housing Act, 1949. The Minister adds a reference to s. 73 (*c*) of the Housing Act, 1936, as amended by s. 1 of and sch. 1 to the Housing Act, 1949, by which local authorities have power to acquire land for lease or sale, with a view to the erection of houses thereon by persons other than the local authority. He will be prepared to consider applications for sanction to loans for this purpose, when the local authority are satisfied that such action is necessary to secure the provision of houses for persons in need of homes, in districts where the building of houses under licence has been hampered in obtaining land. The hope is also expressed that all local authorities will give sympathetic consideration to applications made to them by persons who desire to build or acquire their own houses under the Small Dwellings Acquisition Acts and the Housing Acts. He will be ready to sanction loans to enable local authorities to exercise these statutory powers. This is a thing which makes some councillors "see red," but we do not think there is widespread hostility to this use of public money. A bigger obstacle, in our opinion, lies in the technical obstacles presented by the Small Dwellings Acquisition Acts themselves, as interpreted in past years in the Ministry of Health. As readers of our Practical Points will probably remember, we have pretty often expressed an opinion favourable to the use of these Acts, but have felt obliged to warn the querist (or, if we did not, have been promptly reminded by some other correspondent) that what seemed to us a straightforward interpretation of the Acts, leading to their being used in the case before us, was not accepted by the Minister's advisers. We do not of course suggest that the Minister should sanction loans for financing purchases not considered by his own legal advisers to fall within the Acts, but we do suggest that a short Bill, clearing away some of these irritating little snags, would be worth while. Local authorities have also power with the consent of the Minister to sell houses which they have themselves provided under the Housing Acts. The Minister will be prepared to consider applications from local authorities for permission to sell houses. A further communication will be sent to local authorities in the near future, as to the procedure to be adopted in making applications for consent. This, as everybody knows by now, is the most acutely controversial feature of the Government's new housing plans, and one where some local authorities, even with a Conservative bias, are showing signs of making common cause with the Government's opponents.

MODERN LEGAL MAXIMS

(continued)

III

If your faith in human nature is at times a bit depressed
Just remember that we lawyers don't see people at their best.

IV

The Civil Courts are greatly awed
By anyone who mentions fraud.

V

In accident cases you often discover
A great improvement when patients recover.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Singleton, Denning and Morris, L.JJ.)

R. *v.* NORTHUMBERLAND COMPENSATION APPEAL TRIBUNAL. *Ex parte* SHAW

December 4, 5, 6, 19, 1951

Certiorari—Statutory tribunal—Error of law on face of decision—National Health Service (Transfer of Officers and Compensation) Regulations, 1948 (*S.I.* 1948, *No.* 1475), *reg.* 12.

APPEAL by the tribunal from a decision of the Divisional Court of the King's Bench Division (115 J.P. 79).

By reg. 10 of the National Health Service (Transfer of Officers and Compensation) Regulations, 1948, and the schedule thereto officers of hospital boards and other bodies who suffer loss of employment attributable to the passing of the National Health Service Act, 1946, may be entitled to compensation computed according to the number of completed years of "service." "Service," as defined by reg. 2, includes service with a local authority as well as service with a hospital board. The applicant had been employed for many years as clerk to an urban district council, and for a shorter period as clerk to a joint hospital board. His employment as clerk to the hospital board came to an end owing to the passing of the National Health Service Act, and he applied to the Gosforth Urban District Council, as the compensating authority under the regulations, for compensation. In assessing compensation the council did not take into account his service with the urban district council. Being dissatisfied with the award, the applicant applied, under reg. 12, to the Northumberland Compensation Appeal Tribunal to have the matter determined, and the tribunal upheld the decision of the compensating authority. The applicant having moved in the High Court to have the decision of the tribunal quashed by an order of *certiorari*, the tribunal admitted that they had made an error of law in coming to the conclusion to which they did and that that error of law appeared on the face of the record, but contended that the court had no power to interfere with their finding as they had not exceeded their jurisdiction. The Divisional Court held that *certiorari* would issue, and made an order accordingly. The tribunal appealed.

Held, *certiorari* lay to quash the decision of a statutory tribunal, not only where the tribunal had exceeded its jurisdiction, but also where an error of law appeared on the face of the record, and, therefore the application would be granted.

Counsel: *The Attorney-General* (*Sir Lionel Heald*, *K.C.*), *J. P. Ashworth*, and *H. A. P. Fisher* for the tribunal; *Gardiner*, *K.C.*, and *Maurice Lyell* for the applicant.

Solicitors: *Solicitor*, *Ministry of Health* (for the tribunal); *Gwylym T. John* (for the applicant).

(Reported by C. N. Beattie, Esq., Barrister-at-Law.)

REVIEWS

Butterworths Costs In Civil Litigation and Non-Litigious Work. By B. P. Treagus and H. J. C. Rainbird. London: Butterworth & Co. (Publishers) Ltd. Price £7 7s. net. (2 vols.).

We have not been able to lay our hands upon the book of legal reminiscences in which one of the judges of the High Court is recorded as asking counsel: "What are costs?" but if a member of the High Court bench feels that he can afford to be ignorant upon this subject, it is a subject of first importance for the majority of legal practitioners. Sir Douglas Gibbon, Chief Taxing Master of the Supreme Court Taxing Office, states in a foreword that in his experience a great number of practitioners lose an appreciable proportion of their remuneration, through not entering up their bills of costs adequately and correctly. In another foreword, the Master of the Rolls indicates that a correct appreciation by the client of the amount he may expect to have to pay, and by the solicitor of what he may expect to receive, will go far to promote those relations between them which ensure efficiency. Many of our own readers, doubtless, are engaged in legal work where costs may not be of the first importance. If they are solicitors, they are remunerated by salary, so that itemized bills have not the same place in their lives as in those of their brethren in private practice. If they are obliged to put work out to a solicitor in private practice, or to send papers to a member of the Bar, they know that the resulting costs will fall on public funds. People who are engaged in the daily practice of the law, but not in the daily making out of bills of costs, or in correspondence with clients about the amount of such bills, may even have been rather startled, when asked informally to advise a friend, by finding how seriously the ordinary client is likely to underestimate the costs of litigation, or indeed of non-litigious legal work. It may be true, as many laymen will be found to think, that the system of calculating costs by items is in principle fundamentally wrong, but, if it were done away with in favour of some method of lump sum charging, it is certain (unless indeed the legal profession were to pass over to some form of public remuneration) that the bills would be substantial, and probably more than the client contemplated when he first resorted to the law. Although a work like the present (in two volumes covering in all close upon 2,000 pages) cannot be mastered, or even usefully studied, by the layman, its existence will enable the solicitor to let the layman know, at an early stage of the proceedings, what costs he can expect to pay in the event either of his winning or of his losing.

Sir Douglas Gibbon mentions in his foreword that recently he has had to consider matters so diverse as a fee for an opinion of a leader of the Bar in the United States, and the charge to be allowed to a street-trader for attending court. These items fall under the heading of allowable expenses for witnesses; in other branches of the subject there may not be such room for picturesque divergence, but there is sure to be plenty of scope for doubt, which means conceivable disagreement between the solicitor and client. The work does not touch costs in criminal cases, but it covers every branch of civil business including not merely the High Court and County Court but the Palatine Court, Inland Revenue Accounts, the Court of Protection, and Election Petitions, to mention some only of the headings. Speaking broadly, vol. I (of more than 1,000 pages) is concerned with litigation in the High Court (though it deals with some other matters) and vol. II with proceedings in both Houses of Parliament, inferior courts, arbitration and quasi-legal tribunals, as well as non-litigious business. The dichotomy is, however, not complete, the division of topics being settled by convenience.

The two editors are officers of the Supreme Court Taxing Office, and upon particular matters they have been able to call in the help of several colleagues, in that and other branches of the Supreme Court, and several gentlemen in outside practice. Beginning with such of the Rules of the Supreme Court as have a bearing upon costs, one finds full information about the division of work within the Taxing Office and other procedural points, and the relevant rules annotated so far as necessary to explain all doubtful terms. The Chief Taxing Master's foreword records that one of his predecessors set about making a digest of all judical decisions upon costs, but gave up in despair when he was in sight of 10,000 cases and found he was nowhere near the end. The editors of this work have not included (fortunately) so many cases as this, but all that are likely to be needed will be found, and we are glad to see that they are properly cited with dates and full references including references to the English and Empire Digest. Lest it be forgotten, we should mention that the table of statutes and table of cases come at the end of the second volume, instead of in the more usual position at the beginning of the first, and that the cases have been put before the statutes. This is not a thing that matters, once one has discovered it, and it will indeed be of interest to those using the book to compare this method (of finding the table in close proximity to the index) with the normal arrangement. A large part of the book consists of precedents of bills of costs, containing full details, the charges varying from a few pence to court fees and substantial fees to counsel. These precedents are extremely clear, with alternatives plainly shown by italic type where there are alternative charges. We cannot claim, in the course of our own legal work, to have found the need for detailed study of the law and practice in regard to costs, but we do fairly often receive from readers requests for advice upon the subject—requests which sometimes have involved us in research, by reason of the absence of any full and up-to-date reference book on the subject. It is, perhaps, something of a reproach to English law that the costs of litigation are so complicated, and involve so much potentially arguable detail, as it is certainly a reproach that on the whole they run so high—for reasons, we hasten to remark, outside the control (for the most part) of either branch of the legal profession. Given the present English system, it is essential that there shall be means for those who have to work it, whether they are in the taxing office or in the profession outside, to discover what is properly chargeable, and we imagine it will be a long time before any work appears to supersede the present. Even if, as the Master of the Rolls is half inclined to prophesy in his foreword, the outcome of discussions now proceeding is substantial alteration in the law and practice as to costs, that alteration itself must be hung upon an exact

knowledge of the present system. From every point of view, therefore, this work is one which should be heartily welcomed by the legal profession.

Chittys' Treatise on the Law of Contracts. Fourth Cumulative Supplement. By Barry Chedlow ; Clerk & Lindsell on the Law of Torts. Fourth Cumulative Supplement. By B. Cowderoy. London : Sweet & Maxwell, Ltd. Price 5s. each.

These two Supplements, both carrying the law to August 31, 1951, should be obtained by all practitioners using the two standard works to which they refer. Each is adapted for fitting into the back cover of the book, and each will be found to give everything that is needed to bring the main work up to the date mentioned. In each case the main work and the supplement can be obtained for £4, and each is an investment well worth making for the practising lawyer, and indeed in most cases for the office library of a local authority—which may in these days so easily become involved in litigation arising out of its contracts or out of alleged torts committed by its employees.

The Law of Wills. By R. Cross. London : Stevens & Sons Limited. Price 6s. net.

This is the second edition of a publication in the series " This is the Law," which we noticed and commended when it first appeared. It is unfortunate that the price should have had to be raised from 4s. to 6s., for a book comprising less than one hundred pages of small size ; even at the new price it is, however, still a desirable acquisition for any person minded to make his own will or involved in the tiresome business of giving effect to the will of someone else. Mr. Cross is a solicitor, and has probably seen enough of the trouble produced by home-made wills to advise, properly and strongly, that this is a matter in which professional assistance ought to be obtained. Wisely also he points out that, in proving and administering a will, there are many things which can be better done by a solicitor, whose staff will have had experience, than by the private person. Under the heading " Why you should make a will and what happens if you don't," the law of intestate succession is adequately explained. The making, alteration, and revoking of a will can be done in simple cases with the help of the advice here given, and the chapter upon " Special points to consider when making a will " should bring home, to the person who is about to do so, how likely it is that, if left to himself, he will overlook what he ought to remember. Proving a will is, on the whole, less of a task than making it, because the probate officials are there to pull you through, but the twenty five pages which indicate a few dangers in this matter can be usefully studied. It is a workable and valuable little book.

Underhill's Law Relating to Trusts & Trustees. Supplement to tenth edition. By M. M. Wells. London : Butterworth & Co. (Publishers) Ltd. Price 5s. net.

There is only one *Underhill*, and the present Supplement brings it up to date as at September 1, 1951. The main work reached its tenth edition with the date March 1, 1950, so that Miss Wells has had to deal with only eighteen months development. She suggests that the most important case decided in that period is *Oppenheim* v. *Tobacco Securities Trust Co., Ltd.* [1951] 1 All E.R. 31, upon charitable trusts, and calls attention also to *Re Power's Settlement Trusts* [1951] 2 All E.R. 513, upon the appointment of additional trustees. Both these may be outside the daily purview of most of our readers, but there is, also, a group of cases arising out of the nationalization of hospitals, with which many of our readers are concerned. The protracted litigation arising out of the will of Mr. Caleb Diplock (upon which we believe we were the first of the legal periodicals to comment) falls to be noted in several places. Though the noter-up comprizes only twelve pages, they are pages in which every entry is important in the field of equity, not merely in relation to matters already mentioned in this notice but upon various maxims (*e.g.*, in regard to improvident sales), and there is particularly important information given about certain points of company law which have been before the courts. The main work and supplement together cost 77*s.* 6*d.* net, which at first sight seems a lot of money, but the general practitioner, who may at any time be faced with problems in the law of trusts, or with some matter relating to company law where equitable principles impinge upon the statutes, will be imprudent if he does not provide himself with the latest edition of *Underhill* and with the present supplement, while every large local authority ought to have it for reference in the office of the clerk.

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William John Charles Fenton, Wivenhoe, Stratton Drive, Barking.
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Henry Alfred Waller, 177, The Broadway, Wimbledon, S.W.19.
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Samuel Wright, 2, Ashley Close, Walton-on-Thames.

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Mrs. Vera Isabel Bell, The Old Rectory, Ilmington.
William Day, 44, Meadow Road, Nunts Park, Coventry.
Allesley Henry Corbet Ward Boughton-Leigh, Brownsover Hall, Rugby.
Leonard George Downing, 7, Wyckham Road, Castle Bromwich.
William Stratford Dugdale, M.C., Merevale Hall, Atherstone.
Mrs. Elizabeth Emery, The Grange, Southam.
Ralph Ernest Finch, No. 2 Flat, 53, Kenilworth Road, Leamington Spa.
Henry Gittus, 24, Birmingham Road, Alcester.
Malcom Henry Green, Pleasance Farm, Kenilworth.
Mrs. Alice Lilian Harrison, 66, Newtown Road, Bedworth.
Walter Stanley Hattrell, Kenilworth Lodge, Kenilworth.
Alan David Huckvale, 39, Priory Road, Kenilworth.
William Stanley Johnson, 26, Caresbrook Road, Nuneaton.
John Lakin, Piper's Hill, Leamington Spa.
Mrs. Denise Wadsworth Lester, 340, Higham Lane, Nuneaton.
William Michael Maddocks, 67, Kenilworth Road, Coventry.
William Arthur Manning, 3, Maple Grove, Rugby.
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Mrs. Ada Swift, 5, Hyde Road, Kenilworth.
Elijah Twigger, 46, Waverly Avenue, Nuneaton.
Mrs. Christobel Maud Wheatley, Berkswell Hall, Coventry.

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Mrs. Hilary Fitzgerald, Seymour House, Maiden Bradley.
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Arthur William George Wickham, 262, Frome Road, Trowbridge.
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CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

STILES

With reference to your P.P. 3, at 115 J.P.N. 803, might we draw your attention to the provisions of s. 56 (4) and (5) of the National Parks and Access to the Countryside Act, 1949, which would apply to the stiles if they have been erected where none previously stood. Under this section the stiles would be lawful only if the consent of the highway authority to their erection had first been obtained.

Yours truly,
W. H. WILLIAMS,
Deputy Secretary.

Commons, Open Spaces and Footpaths Preservation Society,
71 Eccleston Square,
Belgrave Road,
Westminster, S.W.1.

[See Note of the Week in this issue.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

FOOD STANDARDS PROSECUTIONS

I very much disagree both of the exposition of the law and the administrative conclusions drawn by Mr. H. A. H. Walter in his article at pp. 743-4 of last year's volume. As I see the matter, s. 3 of the Food and Drugs Act, 1938, creates the offence of selling to the prejudice of the purchaser an article of food not of the substance demanded. It is the duty of Food and Drugs authorities to take action in respect of infringements of this section. In the case of the meat content of sausages, for which there is no standard in law, the following principles of case law are of importance :

1. The demand of the purchaser is the determining factor, and by the purchaser is meant the ordinary purchaser (*Collins Arden Products Ltd.* v. *Barking Corporation* (1943) 107 J.P. 117 ; *Pearks Gunston and Tee Ltd.* v. *Ward* (1902) 66 J.P. 774).

2. The Public Analyst's certificate is sufficient evidence of the facts stated therein, and in the absence of a request by the defence that he should give evidence or in the absence of rebutting evidence by the defence the justices should act upon it (s. 81, Food and Drugs Act, 1938 ; *Robinson* v. *Newman* (1917) 81 J.P. 187 ; *Bowker* v. *Woodroffe* (1927) 91 J.P. 118 ; *Broughton* v. *Whittaker* (1944) 108 J.P. 75).

3. If there is contradictory evidence, the justices must weigh it all and come to a decision (*Hewitt* v. *Taylor* (1896) 60 J.P. 311).

4. In the absence of a statutory minimum standard, the justices must fix one for themselves as a matter of fact to be decided on the evidence (*Roberts* v. *Leeming* (1905) 69 J.P. 417 ; *Bowker* v. *Woodroffe*).

If a Public Analyst determines that a sample of beef sausages contains thirty *per cent.* meat content and certifies it as his opinion that beef sausages should not contain less than fifty *per cent.* of meat then it seems to me a *prima facie* offence against s. 3 has been committed by the seller for selling to the prejudice of the purchaser beef sausages not of the substance demanded. It is further perfectly proper for the prosecution to argue that since 1948 the Meat Products and Canned Meat (Control and Maximum Prices) Order, 1948, has made it unlawful for beef sausages to be made and sold with a less meat content than fifty *per cent.* and therefore the ordinary purchaser knows that beef sausages should not contain less then fifty *per cent.* and expects to get at least that quantity of meat content. Used in this way as supporting evidence to show what the purchaser expects, it is entirely irrelevant to consider for what purpose the Meat Products and Canned Meat Order was made.

In my submission the case of *Thomas Robinson, Sons & Co. Ltd.* v. *Allardice*, does not impugn the above position. Here the appellants had originally been charged with selling chocolate dessert powder not of the nature, and not of the substance, and not of the quality (*sic*) demanded by the purchaser, in that the said food did not consist of the product defined by Starch Food Powders (Control) Order, 1941. To begin with, the sale took place in July, 1941, the Order setting up the standard (for blancmange and custard powder) was not made until November, 1941. Further, it was not clear whether the dessert powder would ever have infringed the order in any way, but it seems that apart from these objections the main one was that the Public Analyst's certificate, the form of the information and the original conviction, were without regard to the essential ingredients of s. 3, namely, that a sale must be to the prejudice of the purchaser and were based on the assumption that if an article infringed a Defence Regulation Control Order, it automatically infringed s. 3 of the Food and Drugs Act. That is clearly wrong and all that *Robinson* v. *Allardice* says is that it is wrong.

Lastly, as to the final conclusions in Mr. Walter's article, it seems to me, especially having regard to the fact that meat is in such short supply and sausages are so avidly sought a substitute, it would be a dereliction of duty for a Food and Drugs authority to discontinue taking samples and prosecuting in cases of serious infringements of the Food and Drugs Act. Is it suggested that no Food and Drugs samples should be taken of any food for which a definite standard is laid down in some Control and Maximum Prices Order, under the Defence Regulations ? In practice, there is no improper hardship to the trader and no administrative waste, in Food and Drugs authorities carrying out their work over the whole range of food and drugs, whether these articles are otherwise controlled for other purposes or not. The hypothetical case of duplicate sampling is so remote a coincidence as to be negligible, and even if it arose, a duplicate prosecution (for different offences of a like nature) would be avoided by the common sense of the administrators.

Yours etc.
"EARNEST READER."

[Our contributor, Mr H. A. H. Walter, replies as follows :

I expected that my article would be hotly disputed and I think that "Earnest Reader" has most ably expounded the opposite view.

In my opinion, however, in the absence of a statutory minimum standard it is wrong for the public analyst to base his opinion on a changeable temporary standard prescribed under the Defence (General) Regulations instead of by an order under the Defence (Sale of Food) Regulations.

Though *Thomas Robinson Sons & Co. Ltd.* v. *Allardice* was decided on other grounds, as your learned correspondent points out, one cannot ignore the warnings of the court that orders relating to the composition of food under the Defence (General) Regulations may have had no reference to the objects of the Food and Drugs Act and may have been made for economic reasons.

I do not understand "Earnest Reader's" last paragraph. In my article I specifically stated that sampling officers should be available to give evidence on behalf of the Ministry of Food ; to do so they must continue to take samples but leave the institution of proceedings to the Ministry who apparently regard offences as meriting severer penalties than can be inflicted under the Food and Drugs Act.

Incidentally, there is no prescribed procedure for sampling a sausage. Experts disagree on the method and I would not like to try to convince a court that any particular method is correct and fair ; another good reason for letting the Ministry enforce their own orders.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

Mr. WICKHAM, J.P., AND OTHERS

Normally it is not too hard to identify those extraneous characters who occasionally brighten your Notes of the Week, and even lend a welcome gleam to a more sombre article. But Mr. Wickham, J.P. (apparently for this county of Southampton), at p. 817 of last year's issue, though somehow the name suggests his (and my) compatriot Jane Austen, has so far eluded search. May we be enlightened ?

In re Ingell, loc. cit, might not the fashion of his throwing his weight about be taken as supporting the suggestion you there mention ? His colleagues' names have rested in oblivion, apart from Mike—surely a "Mike" would be easier than the chairman to approach, and it would be desirable for villagers wanting pension papers signed, etc., to know that Sir Thomas was not the only judicial pebble on the Huckley beach.

Yours faithfully,
AMBROSE STENNETT.

Winchester,
Hants.

[Perhaps Mr. Wickham disappeared from our correspondent's local reference books, by reason of being "chucked out of the commission," as Michael Finsbury (and not Jane Austen) warned him was to be expected, when his "playing Billy with the labels" started the trouble in *The Wrong Box.*—*Ed., J.P. and L.G.R.*]

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 5.

AN OFF-LICENSEE SOLD A QUARTER BOTTLE OF GIN

A wine and spirit merchant holding a justices' off-licence in respect of a shop at Aberavon, and his manageress at the shop, appeared recently before the Port Talbot magistrates, to answer charges arising out of the sale by the manageress of a quarter bottle of gin.

The prosecutor, who appeared for the Commissioners of Customs and Excise, submitted that the offence was not as trivial as it might appear on the surface. "This country," he said, "is run by revenue, and Parliament has seen fit to introduce legislation governing the sales permissible at an off-licence as compared with a full licence. The revenue obtainable from a full licence is far higher than that derived from the off-licence, and consequently licensees holding full on-licences feel strongly when off-licensees sell below the permitted minimum quantity."

For the defence, it was stated that customers kept asking for small bottles of spirits, and attention was drawn to the long unblemished record of the defendant off-licensee in the trade. The Bench fined each defendant £5, the chairman stating that the Bench were rather astonished at the legal position which had been disclosed, but the justices felt it was not for them to question why Parliament had enacted this legislation.

COMMENT

The Port Talbot justices are not alone in their surprise at the statutory provisions governing minimum sales at off-licences which, in the writer's view, are indefensible at the present time.

It will be remembered that s. 50 of the Finance (1909-10) Act, 1910, provided, in subs. 4, that if any person holding (*inter alia*) a retailer's off-licence, contravened any of the provisions applicable to such licence as set out in sch. I to the Act, such licensee should be liable to an excise penalty of £50.

Schedule I provides (*inter alia*) that an off-licensee may not sell spirits in any quantity of less than one reputed quart bottle, nor wine in any quantity of less than one reputed pint.

The position as to spirits was amended by s. 22 of the Finance Act, 1933, which permitted holders of a justices' spirits off-licence to sell a quantity of spirits equal to a reputed pint, *i.e.*, a half bottle.

Practitioners with long memories will recall the welcome harvest produced by this section, for up to that time there had been little or no inducement to the holder of an excise spirits off-licence to bring himself under the aegis of the justices, as the minimum quantity he could sell was the same whether he held a justices' licence or not.

The section, incidentally, provided many benches with a welcome reinforcement to their powers for nothing, prior to 1933, was more infuriating to a bench conscientiously planning the licensed facilities they would grant in their division as and when it was developed than to find an off-licence opening under an excise licence only in the middle of an area they considered to be already adequately supplied with licenced premises !

The final nail in the coffin of these interlopers was, it will be remembered, provided by s. 28 of the Licensing Act, 1949, which in substance made it impossible for an off-licensee to carry on his business unless he obtained first a justice's licence entitling him to apply for and hold an excise licence.

It is well known that the Home Secretary in the late Government contemplated amending the law so as to permit off-licensees to sell spirits in quantities of less than half a bottle at a time, but so great was the opposition put up by on-licensees who alone may sell miniatures, nips, etc., by themselves that the proposal was shelved.

It appears to be the settled policy of the Home Office that amendments to licensing law, badly needed though they are, may only be introduced if it is quite certain that they will not prove controversial ; these are no doubt excellent tactics, but the writer respectfully suggests that our civilization would not have reached its present degree of refinement if all legislators had been equally canny.

It must be conceded by every thinking person that if off-licensed shops are to be permitted in this country, they should be allowed to cater for the needs of the population they serve. It may well have been that when whisky and gin sold at 12*s.* 6*d.* a bottle, there was no real need to permit customers at off-licences to purchase less than half a bottle at a time ; the position today is utterly different and it is quite impracticable for a large segment of the population to lay out the money required to purchase a half bottle of spirits. The on-licensee will reply that there is no need to do so—the would-be purchaser has merely to go to his nearest public house, and there he may purchase a miniature for a few shillings. The reply to the publican is, of course, that there are, even in 1952, many members of the public who like a drink in the comfort of their homes but who would feel embarrassed if they had to go into a public house to buy their supplies. Parliament has recognized this point of view by providing the two classes of retailers' licences—on and off.

The writer dares to hope that perchance this article may catch the eye of some august Home Office official who, stung to anger at the suggestion that the Home Office are always wary in dealing with licensing reform, will persuade Sir David Maxwell-Fyfe to instruct the parliamentary draftsman to incorporate in the licensing Bill now in course of preparation, a provision enabling off-licensees to sell spirits in the same sized bottles as are sold by his brother in the "local."

Any moan by the "brother" that this would be unjust in view of the heavier contribution made by him to the Exchequer could be put right by increasing slightly the contributions paid by off-licensees.

R.L.H.

No. 6.

AN IMPUDENT FORGERY

A twenty-six year old labourer appeared recently at Swansea Magistrates' Court charged with an offence under s. 7 of the Forgery Act, 1913.

For the prosecution, it was stated that a woman, who spent her holiday in the summer at Llangadock, visited an inn a few times kept by defendant's parents and met defendant there.

Defendant, who at the time had a fish business, called on the woman and asked her to give him a cheque for a pound in exchange for a £1 note. He said that he had left his cheque book at home and did not want to have to travel eight miles to get it and that he needed a fish licence for which he could only pay by cheque. The woman asked defendant for his initials and defendant wrote his name on the cheque and the amount and the woman signed the cheque and gave it to him. The defendant then called at the offices of a company to which he owed £44 15*s.* 11*d.* and handed over a cheque for £21 in part payment of the amount due by him.

The cheque was the one signed by the woman, and the company representative accepted it after defendant endorsed it.

When the woman returned home after her holiday she learnt from her bank manager that her account was overdrawn and upon looking at the bank statement and the cheques drawn by her she saw that the cheque she had given the defendant had been converted into a cheque for £21.

Defendant, who pleaded guilty to the charge, admitted altering the cheque, and said that he had always fully intended to repay the money and he had repaid it before the hearing. Defendant admitted that the offence was premeditated but stated that he was hard up for money at the time.

Defendant was fined £10 and ordered to pay £3 10*s.* costs.

COMMENT

Section 7 which deals with demanding property on forged documents carries a maximum penalty of fourteen years' imprisonment. Section 18 of the Criminal Justice Act, 1925, provides that offences under the first paragraph of the section, which includes the offence referred to above, may be tried at quarter sessions if the amount of the money or the value of the property in respect of which the offence is committed does not exceed £20, and the offence is triable summarily with the accused's consent by virtue of s. 24 of the same Act.

R.L.H

PENALTIES

Minehead—November, 1941—careless driving—fined £5. To pay £7 7*s.* costs. Defendant, an ex-police sergeant who stated that he had driven 150,000 miles for the police, reversed his car into an eighty-four year old police pensioner who suffered a compound fracture of the leg. The pensioner was heard to remark after the accident that he felt like ninety !

Bristol—November, 1951—stealing £100—fined £10. Defendant stole the money from his brother who had come to stay with him. The money was kept in a sock in the wardrobe. Defendant substituted a toilet roll for the notes.

Weston-super-Mare—November, 1951—stealing toys worth 12*s.* 6*d.*—twelve months' probation. To pay 15*s.* costs. Defendant, aged twenty-nine, a lorry driver who had been ill and off work, stated he took the toys because he had no money and was anxious to provide presents for his two small children at Christmas.

Bath—November, 1951—attempting to travel on the railway without paying the fare—fined £1. To pay £1 1*s.* costs. Defendant altered the date on the ticket.

THE EUPHONIOUS POLICEMAN

That fine body of men, the Police Force, requires of its members a judicious combination of qualities, a tempering of opposites, such as few other professions demand. The aim is simply expressed—to curb the liberty of the subject only when such liberty degenerates into licence; the carrying of the ideal into practice demands a very paragon of character. The police officer must be ubiquitous but unobtrusive, firm yet patient, tolerant as well as upright, watchful without appearing suspicious. His duties are too multifarious to enumerate; at one end of the scale he may be seen escorting school-children across a busy street, and at the other arresting a dangerous criminal. Like the knight-errant of old he is courteous and considerate to the weak and unprotected, stern and implacable in suppressing evildoers. As an agent, and not a mere servant, of the administration of justice, he must have considerable knowledge, and be capable of an intelligent appreciation of legal matters, including the law of evidence. And in courts of summary jurisdiction, where he carries out most of his forensic duties, he appears as both advocate and witness—a double *rôle* requiring tact and skill of a high order.

"Discretion of speech," says Bacon, "is more than eloquence," but audibility is more important than either, at any rate in the courts. It is in this last-mentioned quality, according to a recent news-item, that the police witnesses in the City of Halifax (otherwise exemplary in their duties) have given cause for dissatisfaction. "Magistrates have complained that their evidence was often gabbled so quickly that it could not be heard properly." The Chief Constable, jealous of the reputation of his men, has wisely consulted the local Director of Adult Education. That learned person has summoned to his aid no Stentor of the brazen voice, but two of the Muses—Urania, the patroness of science, and Melpomene, the goddess of tragic poetry. Classes in criminology have given place to lessons in elocution. The truncheon and the note-book have been laid aside; the microphone and the recording machine have taken their place; *Stone's Justices' Manual* has been put back on the shelf, and in its stead the studious officer cons a volume of Shakespeare. The voice-reproduction mechanism is helping him to learn "how to articulate, to sound vowels more clearly, to avoid dropping the voice at the end of a sentence, and to breathe correctly."

Some considerable time has passed since the institution of the Police Training College at Hendon gave rise to stage quips about imposing upon the gallant men in blue a "refeened" manner of speech, and it is many a year since the traditionally comic figure of the illiterate policeman, dropping his aspirates as well as his voice, and breathing stertorously as he gave his evidence, became *démodé* as a parody no longer apt and a joke in questionable taste. A high level of education has long since been required from men who join the Force; and if the so-called "standard" pronunciation of English has not yet been universally adopted, that will be a matter of regret to none but the purists of the British Broadcasting Corporation—themselves by no means a model of faultless rectitude. Who but a few faddists would welcome the replacement of the broad vowels and characteristically rugged intonation of the sturdy Yorkshire folk by the attenuated vocalisation and clipped speech of the Londoner? That the Cockney diphthong was an acoustic monstrosity can scarcely be denied, but the Cockney is almost extinct, and it may be questioned whether the cacophonies he used to utter were not sometimes less displeasing to the ear than those of the species that has replaced him. The Inspector from the Ministry of Education, in the story, who returned to the school where, eighteen months before, he had heard the children praying for "grice and fiver," thought the change unedifying when he found them, under the new *régime*, invoking the blessings of Heaven in "grease and fever." It is difficult to say which is worse.

This digression, however, must not be allowed to blind us to the fact that the Halifax experiment represents a courageous new departure in vocational training. The vision of a body of policemen declaiming Shakespeare into a microphone, and subsequently listening to a sound-recording of their efforts, is at first blush a little startling. But the range of our great national Poet is universal, and a little research will show that he has plenty to say on the subject. The importance of a training in elocution finds its classic example in *Hamlet*; the instructor need do no more than quote the Prince's advice to the Players (Act III, Scene 2):

> "Speak the speech, I pray you, as I pronounced it to you, trippingly on the tongue; but if you mouth it, as many of your players do, I had as lief the town-crier spoke my lines. Nor do not saw the air too much with your hand, thus; but use all gently; for in the very torrent, tempest and, as I may say, whirlwind of your passion, you must acquire and beget a temperance that may give it smoothness . . . Be not too tame, neither, but let your own discretion be your tutor; suit the action to the word, the word to the action; with this special observance, that you o'erstep not the modesty of nature."

What has Shakespeare to say of the administrators of the law in his own day? It must be at once regretfully admitted that he shows them scant respect. Consider, for instance, that prototype of judicial decrepitude, Justice Shallow, in *King Henry IV*, Part II (Act III, Scene 2), boasting to his equally senile colleague, Justice Silent, of his exploits as a law student in his youth:

> "I must, then, to the Inns of Court shortly; I was once of Clement's Inn, where I think they will talk of 'mad Shallow' yet . . . I would have done anything, indeed, and roundly too. There was I, and little John Doit of Staffordshire, and black George Barnes, and Francis Pickbone, and Will Squele, a Cotswold man—you had not four such swinge-bucklers in all the Inns of Court again . . . Then was Jack Falstaff, now Sir John . . . I saw him break Skogan's head at the court-gate, when he was a crack not this high; and the very same day did I fight with one Sampson Stockfish, a fruiterer, behind Gray's Inn. Jesu, Jesu, the mad days that I have spent!"

It is pleasant to observe that the boisterousness of the modern undergraduate is by no means a recent innovation.

So much for the Poet's opinion of the luminaries of the Bench. Unfortunately it does not appear that he was any more sympathetic to the policemen of his day, as witness the goings-on of the "two foolish officers," Dogberry and Verges, in *Much Ado About Nothing*. We meet them first giving instructions to their subordinates (Act III, Scene 3):

Dogberry—This is your charge: you shall comprehend all vagrom men; you are to bid any man stand, in the Prince's name.

Watchman—How if he will not stand?

Dogberry—Why, then, take no note of him but let him go; and presently call the rest of the watch together, and thank God you are rid of a knave . . . You shall make no noise in the streets; for the watch to babble and talk is most tolerable and not to be endured.

Watchman—We will rather sleep than talk; we know what belongs to a watch.

Dogberry—Why, you speak like an ancient and most quiet watchman; for I cannot see how sleeping should offend . . . Well, you are to call at all the alehouses, and bid those that are drunk get them to bed.

Watchman—How if they will not?

Dogberry—Why, then, let them alone till they are sober . . . If you meet a thief, you may suspect him, by virtue

of your office, to be no true man; and for such kind of men, the less you meddle with them, why the more is for your honesty.

Watchman—If we know him to be a thief, shall we not lay hands on him?

Dogberry—Truly; by your office you may: but I think they that touch pitch will be defiled; the most peaceable way for you, if you do take a thief, is to let him show himself what he is, and steal out of your company.

It is Dogberry who is responsible for that delightful phrase "Comparisons are odorous," and the scene where, having "comprehended two aspicious persons," he charges them before the authorities, is excellent fooling (Act V, Scene 1):

Don Pedro—Officers, what offence have these men done?

Dogberry—Marry, sir, they have committed false reports; moreover they have spoken untruths; secondarily, they are slanders; sixth and lastly, they have belied a lady; thirdly, they have verified unjust things; and, to conclude, they are lying knaves . . . Moreover, sir, which indeed is not under white and black, this plaintiff here, the offender, did call me ass; I beseech you, let it be remembered in his punishment.

It is to be hoped that the Halifax Constabulary, if they include these passages in their studies, will enjoy themselves as much as Shakespeare's audience must have done, and that they may achieve the desired improvement in their oral delivery of evidence without taking as a model the standard of discipline or efficiency of their Elizabethan forbears.

A.L.P.

PERSONALIA

APPOINTMENTS

Mr. B. O'Brien has been appointed solicitor and legal adviser to the Ministry of Health in succession to Sir Thomas Harrison who has retired. Mr. O'Brien will also act as solicitor and legal adviser to the Ministry of Housing and Local Government.

Mr. Frank Dixon Ward, assistant town clerk to the city of Peterborough since 1949, has been appointed senior assistant solicitor to the county borough of West Ham. Mr. Ward served his articles with the town clerk of Eastbourne. He was appointed junior assistant solicitor to the Peterborough corporation in February, 1948, became senior assistant solicitor in June, 1948, and assistant town clerk in April, 1949.

Mr. C. William Skinner, L.M.T.P.I., chairman of the Westminster, Chelsea and Holborn Rent Tribunal since 1946, and member of the National Health Service Executive Council (Middlesex), has, for the fourth time, been elected chairman of the Edmonton petty sessional division. He is a former mayor of Southgate and member of the Middlesex county council.

RETIREMENTS

Mr. S. Burgess, M.B.E., probation officer at the Highgate court for the past thirty-six years, has retired. In 1944 he was awarded the M.B.E., in recognition of the work he had performed for the probation service.

Mrs. D. Browne, probation officer at the Acton court for the past thirty-one years, has retired.

OBITUARY

Lord Ilkeston died at Leamington on January 4 at the age of eighty-four. Called to the Bar by the Inner Temple in 1892, he practised on the Midland Circuit where he was revising barrister from 1906-1910. In 1910 he was appointed stipendiary magistrate of Birmingham, retiring in 1950 under the age limit. In 1912 he was appointed to the Warwickshire bench and in 1916 became deputy chairman of the Warwickshire quarter sessions. He was appointed chairman in 1921 and retired in June, 1950.

Mr. Seward Pearce, C.B., C.B.E., assistant director of public prosecutions from 1921 to 1933, died recently. Born in 1866, he was admitted a solicitor in 1889 and joined the Treasury solicitor's department in 1892. In 1921 he became assistant director of public prosecutions and he resigned in 1933.

Mr. Edward Lamley Fisher, M.B.E., died recently at Banbury at the age of eighty-four. He was formerly clerk to the Banbury R.D.C., clerk of the Banbury county sessions, and superintendent registrar of births, marriages and deaths. He served with the council for a total of fifty-five years.

BOOKS AND PUBLICATIONS RECEIVED

General Register Office: Studies on Medical and Population Subjects, No. 5, Internal Migration, by M. P. Newton and J. R. Jeffery, London, H.M. Stationery Office, 1951, 1s. 6*d*. net.

Scintillae Lucis concerning the Landlord and Tenant Act, 1927 (A Supplement thereto), by L. G. H. Horton-Smith, The Referees (Landord and Tenant Act, 1927) Association, 1951, 5s. net obtainable (5s. 6*d*. post free) from Mr. G. E. Tunnicliffe, 5 Kensington Park Gardens, W.11.

INQUIRY INTO GILLINGHAM BUS ACCIDENT

Under the provisions of s. 23 of the Road Traffic Act, 1930, the Minister of Transport, the Hon. John S. Maclay, C.M.G., M.P., has appointed Sir Robert H. Tolerton, C.B., C.B.E., D.S.O., M.C., to hold an inquiry into the cause of an accident involving a double-decked omnibus which occurred in Dock Road, Gillingham, Kent, on December 4, 1951.

The date and place of the inquiry will be announced as soon as possible after the conclusion of the pending proceedings against the driver of the omnibus.

NOTE.—Before his retirement in 1948 Sir Robert Tolerton was an Under Secretary in the Ministry of Transport.

RETIRING

I take it hard that I must cease
To be a Justice of the Peace
Because (though level-headed and sage)
I have achieved a ripe old age.

Yet I can follow without aid
Submissions *sotto voce* made,
And I can still from far and near
Hear things I am not meant to hear.

I do not even glasses need
To see a distance or to read.
I can with naked eye detect
A great deal more than you suspect.

My hair is hardly tinged with grey,
My teeth are still mine own today,
And yet the powers that be make bold
To say that I've become too old.

But just you wait and just you see
Who they'll appoint in place of me,
A stupid fellow, tied of tongue,
Whose only merit is he's young:
If that indeed a merit be
It doesn't seem so, sir—to me.

J.P.C.

THE FIFTY PER CENTER

There were only two courses that he could take—
And, need I inform you, he made a mistake.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Acquisition of Land—*Agricultural holding—Tenancy for year or less—Premature determination.*

The Lands Clauses Acts, as modified by the New Towns Act, 1946, apply to the acquisition of land by development corporations by reason of s. 4 (2) of the 1946 Act. A corporation is purchasing by agreement land which is subject to an agricultural tenancy; the vendor is not contracting to give vacant possession on completion. Do you agree that s. 121 of the Lands Clauses Consolidation Act, 1845, applies to purchases by agreement as well as by compulsory purchase, so as to enable the corporation to require the tenant to give up possession, otherwise than by determination of his tenancy by proper notice given under the agreement and in accordance with the Agricultural Holdings Act, 1948? If so, what should be the minimum period of notice and should it be in the form of notice to quit, and can it be given after the exchange of contracts but before completion (assuming that the vendor is willing to allow the purchaser to have possession before completion)? DET.

Answer.

We assume that the tenancy here in question is a yearly tenancy or less. Section 121 of the Act of 1845 is not limited to cases where the landlord's interest is acquired compulsorily, and can be used as soon as the purchaser may lawfully enter as against the vendor. No particular form of notice is laid down by the Act for the tenant to be "required" to give up possession, and at 115 J.P.N. 623 we said that this requirement differed from a notice to quit in the ordinary sense, since it could be made in circumstances when a notice to quit could not be given. The courts have however not yet been called upon to consider the relation between this "requirement" and s. 23 of the Agricultural Holdings Act, 1948. The provisions of ss. 23 to 25 are intended to protect agricultural tenants against public authorities (as will be seen from s. 24) as well as against private landlords, and it may be held that the making of a requirement under s. 121 of the Act of 1845 falls within the generic phrase "notice to quit" in s. 23 of the Act of 1948, seeing that its effect is the same and that many ordinary agricultural tenancies have always been from year to year. In the case before us, therefore, it is necessary to know when the tenancy began. If before March 25, 1947, the corporation have the benefit of the proviso to s. 23, and can require possession under s. 121 of the Act of 1845 forthwith, subject to compensation which may be materially increased if they demand possession reasonably soon: *see* also s. 24, especially subs. (2) (*b*). If the tenancy began after March 25, 1947, s. 23 itself applies, and defeats s. 121 of the Act of 1845.

2.—Bastardy—*Poor Law Amendment Act, 1844, s. 5—Whether partially repealed.*

In *Stone*, 81st edn., at p. 562-3, s. 5 of the Poor Law Amendment Act, 1844, is set out as follows: "After the mother's death or whilst she is of unsound mind or in prison, any two justices may by order under their hands and seals from time to time appoint some person who with his own consent shall have the custody of the child [so long as such child is not chargeable to any parish or union] and may revoke the appointment and appoint another person in his stead and the person so appointed may recover the money [so long as such child is not chargeable to any parish or union and the clerk to the justices making an order on the putative father is to send by post or otherwise a duplicate of such order or appointment signed by him to the clerk of the guardians of the union or parish where the mother resided at the time of making such order or appointment]."

In *Stone*, 83rd edn., at p. 501, the same section is again set out, in a considerably abbreviated form. The words placed in brackets in the above quotation are now omitted from the section as printed.

I have made a careful search in an endeavour to ascertain by what means the words omitted from the section as printed in the latest edition were repealed. There would appear to be no question that if they are now omitted they must have been repealed by some means during the past two years, but I am unable to trace any repeal of these words.

It is entirely reasonable that the words should be deleted in the section, having regard to the abolishment of the poor law system and the provisions of all the recent legislation to replace the same.

It would be appreciated if you can indicate the authority for the amendment of the section as printed in the latest edition of *Stone*.

Answer.

The words in question have not been repealed, but have clearly become of no effect. The learned editor of *Stone* has summarized the section so as to state its present effect.

3.—Burial—*Exhumation—Licence refused when owner of grave unwilling.*

We have been consulted by a widow who desires to have her husband's remains removed from the grave in which he is now interred and re-interred in another grave of her own choosing. The deceased died in December, 1950, and the facts of the case are as follows:

The widow, who is also the sole executrix of her husband's will, was in Australia when he died and his sisters who undertook the funeral arrangements, without her knowledge or consent, had the body interred in their family grave. They did not inform her of his death until some ten days after his decease, and she had no opportunity of making her wishes as to his burial known.

The grave in which the deceased is interred belongs to the sisters, and they are not willing to give their consent to the opening up of the grave or removal of the body.

We have been in communication with the Home Office, who state that it is contrary to their practice to consider an application for a licence to remove the body unless the grave owner's consent is obtained. They also state that such licence only protects persons from criminal proceedings under s. 25 of the Burial Act, 1857, and could in no way affect the civil rights of the owners of the grave.

Could you please advise fully upon the widow's position and as to what further steps, if any, can be taken to carry out her wishes. ARU.

Answer.

It may be natural that the widow should be upset, especially if, despite her being in Australia, the sisters could have got into touch with her and ascertained her wishes. (They may have been unable to do so, and have done their best in the circumstances.) However this may be, she is helpless in the matter. If the desired licence were granted, it could (as the Home Office say) confer no right at all to interfere with the grave; it would be nugatory and at the same time potentially misleading so that refusal to grant it, without the consent of the owner, is proper.

4.—Criminal Justice Act, 1948—*Conditional discharge followed by probation—Commission of further offence.*

In September, 1950, a man was convicted at quarter sessions of housebreaking and was conditionally discharged for twelve months. In October, 1950, he committed an offence for which he was punished in the magistrates' court. In January, 1951, he was brought before quarter sessions under the Criminal Justice Act, 1948, s. 8, having been convicted and dealt with for an offence committed during the period of conditional discharge. At those quarter sessions a probation order was made for a period of two years. In August, 1951, he was convicted and punished by quarter sessions in another part of the country on a charge of office breaking.

1. Should he be brought before the original quarter sessions to be dealt with under s. 8 (5) of the Criminal Justice Act, 1948, for having been convicted and dealt with during the period of conditional discharge?

2. As the probation order in question contained no provision for securing the good behaviour of the probationer save that he be under the supervision of the probation officer, is a conviction for office breaking a breach of that order or is the provision in s. 8 (1) of the 1948 Act adequate?

3. Should the man be brought before the supervising quarter sessions for breach of the probation order? SCAL.

Answer.

1. We think so. Although the matter is somewhat complicated by the fact that a probation order has been added, it can be said that the order of conditional discharge has not come to an end, because the offender has not been sentenced on the original charge.

2. Conviction of an offence must not be treated as a breach of a requirement in a probation order, Criminal Justice Act, 1948, s. 6 (6), but must be dealt with under s. 8.

3. There is no question of a supervising court of quarter sessions. The supervising court must be a court of summary jurisdiction, *see* s. 80.

5. Game—*Offence against s. 2 of Poaching Prevention Act, 1862—Form of information.*

I shall be obliged by your views on a point under s. 2 of the Poaching Prevention Act, 1862. This appears to create two separate offences. The first is obtaining game by unlawfully going on any land in search or pursuit of game and the second is using any gun, etc., for unlawfully killing or taking game. The question that I can find no authority on is whether the former offence is one offence or whether it in its turn comprises two alternative offences namely, (*a*) going on land in search of game and (*b*) going on land in pursuit of game. After considering the section I have issued a summons only for going on land in search of game, but I shall be obliged if you will give me your views on this point. I see that in *Oke* the words " search or pursuit " are used without the word " or " being italics.

S.G.

Answer.

In many cases it might be impossible to prove whether the defendant had been (*a*) in search, or (*b*) in pursuit, but quite possible to prove that he was unlawfully on land for one or other of the two purposes. Reading the section as a whole, we come to the conclusion that it is unobjectionable to use the words " search or pursuit " just as one may use the words " drink or a drug " in stating an offence under s. 15 of the Road Traffic Act, 1930. *Thomson* v. *Knights* [1947] K.B. 336; 1 All E.R. 112.

6. Housing Act, 1936 : ss. 9 and 10—*House under requisition—Who has control?*

The late town clerk as agent for the Minister of Health in exercise of the powers delegated by virtue of reg. 51 of the Defence Regulations, 1939, requisitioned a house in 1941. The compensation rental payable to the owner by the Minister was assessed by the district valuer on the basis that the owner would carry out all repairs to the property. The corporation collect the actual weekly rent of 9*s.* 7*d.* (inclusive of rates and water rent) from the occupier. The premises are still requisitioned and all collections and payments are made as agents for the Minister of Housing and Local Government (as successor to the Minister of Health for this purpose). The relationship between the corporation and the occupier is that of licensor and licensee.

The premises are now in a bad state of repair and the corporation are considering action under s. 9 of the Housing Act, 1936, to render the house fit for habitation.

Your advice is sought on the following points :

(*a*) Under s. 9 (1) who is the person having control of the house? (i) Is it the owner who receives the compensation rental? (ii) Is it the corporation who act as agent for the Minister of Housing and Local Government in collecting and paying the rent and managing the property? (iii) Is it the Minister of Housing and Local Government by whom the powers of requisitioning were delegated, who receives the actual rent and pays compensation rent?

(*b*) In any case, on whom should a notice be served under s. 9 (2)?

(*c*) Should the corporation be required to carry out the work : (i) As the person having control and in compliance with the notice (ii) As local authority under s. 10 of the Housing Act, 1936, how is the cost to be recovered from the owner?

(*d*) Have the corporation any right to " set off " the compensation rent against the cost of the works in (*c*) (i) or (*c*) (ii) above.

D. ORBIS.

Answer.

The word " control " in s. 9 of this Act does not mean physical control; the " person having control " is defined in the same terms as the " owner " in the Public Health Act, 1936. Except that we are not expressly told here that the compensation rent is a rack rent, as we were in P.P. 11 at 111 J.P.N. 699, the case seems the same as there, and the sentence about compensation rent suggest that this is a rack rent. We therefore answer :

(*a*) The owner who receives the compensation.

(*b*) On him alone.

(*c*) Offer him facilities to execute the works under s. 9; if he fails, proceed as in (*c*) (ii) Since he is getting the compensation rent without the trouble of collecting it or the risk of voids, the council should take whichever of the statutory methods will best produce the money.

(*d*) Seeing that s. 10 gives a choice of methods, we do not advise setting off the compensation rent, unless an order of the court for payment has been made and is not satisfied.

7. Husband and Wife—*Maintenance arrears—Recovery from seaman—Merchant Shipping Act, 1894.*

In order to avoid having to take out a warrant of apprehension to recover arrears due under a maintenance order, application was made to the employers of a seaman for payment of the same, which they have done. They have, however, deducted an amount for their " out-of-pocket expenses " on the ground that it was not an attachment of his wages under s. 183 of the Merchant Shipping Act, 1894. Will you kindly advise whether they are entitled to make the deduction above mentioned and why the mother should not receive the full amount of maintenance money due to her.

SEA.

Answer.

This cannot be a proceeding by way of attachment of wages in satisfaction of sums due under the maintenance order, because the wages of a seaman cannot be so attached, Merchant Shipping Act, 1894, s. 163.

We do not quite understand how s. 183 is brought in. Sections 182 and 183 refer to cases where a seaman's wife or family becomes chargeable to the poor law. Since the abolition of the poor law by the National Assistance Act, 1948, regulations have been made under s. 62 (2) of that Act, entitled the National Assistance Act, 1948 (Adaptation of Enactments) Regulations (S.I. 1951 No. 174) adapting these sections to the new conditions as to assistance. However, it does not appear from the question that assistance has been granted, and if it is a matter of an informal arrangement only, it seems difficult to resist the claim to make the deductions.

We have assumed that the maintenance order was made in respect of a wife and/or child under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949.

8. Land Charges Act, 1925—*Cancellation of charges—Negative certificate.*

On looking at P.P. 7 at 115 J.P.N. 830, I cannot help wondering whether the registrar ought, as suggested by Anbur with your concurrence, to cancel the entry in question? Though unenforceable against the present owner, it may hold good against a purchaser from him, if the latter is not so fortunate as in his turn to obtain an incorrect certificate. This may be hard on the present owner, as you indicated at 115 J.P.N. 681, but I suggest that it is the better view of the law.

BINKS.

Answer.

We think so, too. Our answer to P.P. 7 at 115 J.P.N. 830 had been passed for press before the full reconsideration of the matter, of which we spoke in a footnote at p. 825 in the same issue.

9.—Larceny—*Finding—Duty of Finder.*

I would, with respect, draw your attention to the following words which appear at 115 J.P.N. 543, *ante*, under the heading "Finding and Keeping." Quoting "that the legal duty of the finder of property is to restore it to the owner if that person is known or can be ascertained by taking reasonable steps."

These words imply to me that in such circumstances a finder commits an offence if he fails to take some active steps to restore the property to the owner even although this involves time, trouble and perhaps some expense, *e.g.*, telephone call, postage, etc., however minor. This may be morally right but I can find nothing in law which goes so far as to make it a legal obligation—nothing that will turn a merely lazy person into a felon just because he is lazy. The major points at issue in a charge of larceny finding are, I submit, the finder's belief and his intent to permanently deprive, both at the time of finding. It is obviously a good defence to show the finder took reasonable steps to find the owner but that is a different matter and quite distinct from a legal obligation. I suggest that a person who finds an article, keeps it in the hope that a reward will be offered for its return, and intending to return it under those circumstances, but does nothing more about it, is not guilty of larceny by finding.

I may be making a mountain out of a mole-hill but if my understanding of the point is wrong, I should appreciate your correction.

STG.

Answer.

There is really nothing stated by our correspondent from which we dissent. It is, as he says, the belief and intention of the finder when he takes possession which must be the test, but if he takes no steps at all to find the owner when he could easily do so the intention to deprive the owner permanently of his property will, in most cases, be not unreasonably inferred. As is stated in *Cross and Jones's Introduction to Criminal Law*, 2nd edn. p. 176, "It should be borne in mind that in modern times, owing to the existence of railway lost-property offices and improved means of ascertaining who is the owner of lost goods, there cannot be many cases in which a finder of chattels can be said not to believe that the owner can be found by taking reasonable steps."

We do not suggest that there is a duty upon a finder to go to considerable expense and trouble in trying to find the owner, or that he must act instantly. It would not be unreasonable for an honest finder of property to wait a few days and to watch for an advertisement in the newspapers. Of course a simple and, in our opinion, proper way of dealing with the matter may be to inform the police in the hope that the owner will inquire of them. A person who appropriates property which he finds when he knows he could probably discover the owner by taking reasonable steps is liable to conviction of stealing, and in that sense has failed in what is an implied duty. If a person retains the property without making any attempt to discover an owner who could easily be traced that fact supplies some evidence that he is appropriating it to his own use. Apart from the criminal law, there is of course the legal duty to restore the property to its owner on demand.

10.—Licensing—*Justice who is holder of "off" licence—Whether disqualified for adjudicating in prosecutions under Spirits Act*, 1880.

Will you be please be kind enough to give me your views as to whether a justice of the peace who holds an off-licence for the sale by retail of wines and spirits in his division is entitled to adjudicate in a prosecution by H.M. Customs and Excise under ss. 105, 107, 146 and 148 of the Spirits Act, 1880? The justice is not in any way connected with the prosecution.

N. ABC.

Answer.

There is no statutory bar. In our opinion, and we so advise in all cases of this description, it is a matter for the justice himself to consider whether his adjudicating will have an appearance of bias. The very fact that our correspondent asks the question is an indication that some misgivings have arisen. It is good, as a general principle, to resolve a doubt as to whether one should sit or not in favour of not sitting.

11.—Local Government Act, 1933—*Election—Councillor and alderman—Incompatibility.*

An alderman of my council died on April 22, and the agenda for the next ordinary meeting of the Council on May 8, will give notice that at that meeting an election for the filling of the aldermanic vacancy will be held: s. 66 of the Local Government Act, 1933. I believe that the dominant party in the council may decide to elect to the aldermanic vacancy a councillor who is seeking re-election to the council at the municipal elections to be held on Thursday, May 10. As the due date for the withdrawal of nominations has now passed, it seems to me that the election on May 10, must, in any event, proceed. Furthermore, it appears that the election of an alderman on the May 8, must be held.

The following position may possibly arise, *viz*, that the person elected to the aldermanic vacancy may also be elected a councillor on May 10, and, in law, there does not appear to be anything against this being done: *see R.* v. *Bangor Corporation* (1886) 51 J.P. 51; S.C. *sub nom. Pritchard* v. *Bangor Corporation* (1888) 51 J.P. 564. In the event of his election, it is assumed that the person concerned would immediately resign the office of councillor to which he had been elected in accordance with s. 62 of the Local Government Act, 1933 (on the assumption that his election as councillor would not in any way affect his position as an alderman) and a bye-election for the consequent vacancy of a councillor would have to be held in due course.

I shall be glad of your opinion on the following points:

(1) Do you agree generally with the reasoning above?

(2) Am I right in assuming that a person may resign the office of councillor under s. 62 of the Local Government Act, 1933, immediately he is elected without having taken the declaration of acceptance of office and that there is no necessity for the provisions of s. 61 (2) of the Local Government Act, 1933, to be invoked?

(3) Whether or not election as a councillor without declaration of acceptance of office would automatically cause the office of alderman to be vacated? Would there be any difference in the event of the declaration of acceptance of the office of alderman not having been made before May 10?

(4) If the person elected takes the declaration of acceptance of office as a councillor would there automatically be a vacancy in the office of alderman?

ALDU.

Answer.

(1) We agree generally.

(2) It can be argued that a resignation is an "act in the office" within s. 61, especially since s. 61 treats a declaration of acceptance as such an act. But we are sure that a modern court would strive against the absurdity of saying that a man must formally accept for the purpose of resigning, and we think your view is preferable.

(3) We should say "No" to both limbs of this question, because until acceptance the election is not complete.

(4) Although in the converse case Parliament (in s. 14 (4) of the Municipal Corporations Act, 1882, and s. 21 (3) of the Local Government Act, 1933, thought express provision necessary, we think the answer to this question is "Yes," on the ground that the offices are, after acceptance, incompatible: *see* what Lord Esher, M.R., said about *R.* v. *Coaks* (1854) 3 E. & B. 249, at 51 J.P. 73 (third column). Despite the conflicting observations in the House of Lords, about what he had said, the principle of incompatibility seems to us reasonably plain.

[This question was answered by post on May 3.—*Ed., J.P. and L.G.R.*]

12.—Rating and Valuation—*Recovery of rates—Distress warrant—Insufficient goods.*

I read with interest the article "Non-payment of rates—Power of Justices to commit" at 115 J.P.N. 515. I am particularly interested in the second paragraph of the article and the reference to the defaulter's having insufficient goods to satisfy the debt due, etc., in accordance with s. 2 of the Distress for Rates Act, 1849. I understand that where a bailiff distrains for rates and ascertains that there are insufficient goods to satisfy the distraint he should not remove any of the goods but return the warrant endorsed "No sufficient goods" or words to the like effect. The rating authority can then apply to the justices for commitment to prison. Where, however, a bailiff seizes and sells goods and the amount realized is insufficient to satisfy the distress he must, of course, after taking out his costs, hand over the balance of cash to the rating authority and endorse the warrant "Insufficient goods." Can the rating authority in such an instance apply for commitment and if so can the defaulter plead that his goods should not have been removed as they did not completely satisfy the distraint, or alternatively, as they have been removed and sold leaving a balance outstanding, that no commitment proceedings should be taken in respect of the balance? AAA.

Answer.

Section 2 of the Act of 1849 allows a return of "no sufficient distress," when a warrant of commitment can follow, subject to s. 10 of the Money Payments (Justices Procedure) Act, 1935, but such a return is not compulsory. The bailiff or other person levying is not at that stage always able to prophesy what the goods will fetch on sale, and is entitled to take what distrainable goods he can find, and, if these upon sale do not realize the full amount due, the rating authority can then proceed for the balance, either by applying for commitment or by a second distress if they have reason to think this will produce the balance due. We do not know of any authority for the ratepayer's alleging that a distress is bad because its result has proved insufficient. *See Hutchins* v. *Chambers* (1758) 1 Burr. 579, for the general proposition that a second distress is legally admissible, and (on rather special facts) *Walsh* v. *Southworth* (1851) 15 J.P. 452; *Lee* v. *Cooke* (1858) 22 J.P. 177.

13.—Road Traffic Acts—*Driving while under the influence of drink—Examination by police doctor—Warning that accused need not submit to examination—Calling his own doctor.*

A case will shortly come before my bench where defendant is alleged to have driven a motor car whilst under influence of drink, etc., contrary to s. 15 of the Road Traffic Act, 1930.

My attention has been drawn to *Taylor's Principles and Practice of Medical Jurisprudence*, 10th edn. (1948), p. 539 footnote which says: "... Mr. Justice Rigby Swift, Liverpool Assizes, February 14, 1934, stated that the police (a police surgeon) have no right to apply tests for drunkenness without the consent of the accused, and a similar ruling has recently been given by a full bench of Scottish Judges in making their decisions in a case of appeal."

Can you say that Mr. Justice Rigby Swift's observations as above have remained unaffected by any subsequent cases.

Again on p. 540 of *Taylor*, the second paragraph reads: "... Where a practitioner is summoned to examine ... a suspect, it is his duty to inform him who he is and why he has been asked to examine him, and in the presence of witnesses ask his consent to proceed with the examination, informing him of his right to refuse, and that if he consents the results of the examination will be recorded and used either in his favour or against him as the case may be ..."

"... A further legal point should be noted namely that if the examining surgeon certifies that the suspect is in his opinion too much under the influence of alcohol to be in charge of a car, he must inform him of the fact and of his right, if dissatisfied with the finding, to have a doctor of his own choice examine him at his own expense."

I should be obliged by your opinion generally on this subject. It seems that the learned editor of *Taylor* has in mind procedure analogous to that of a caution by a person about to prefer a charge for a criminal offence. Whilst this procedure would be most desirable I cannot find a reported case where omission to follow such procedure has resulted in a dismissal, or of a case where the procedure to be followed has been laid down. J. SMOKER.

Answer.

The question of the admissibility of a doctor's evidence was dealt with in *R.* v. *Nowell* [1948] 1 All E.R. 794 and we refer our correspondent to the judgment of the court, delivered by Humphreys, J., in the case.

14.—Road Traffic Acts—*Orders regulating traffic*—1930 *Act* s. 46 (2), 1933 *Act* s. 29 (4)—*Method of proving orders made by councils under these sections.*

Orders have been made by the local authority under s. 46 (2) of the Road Traffic Act, 1930, and s. 29 (4) of the Road and Rail Traffic Act, 1933, regulating the movement of traffic in certain streets and prohibiting parking except at specified times.

On the hearing of summonses for breaches of the orders it is necessary at times to strictly prove the orders in question.

In order to avoid the production and proof of the original orders, are you aware of any provision for the submission of a certified true copy in similar manner as is provided by s. 252 of the Local Government Act, 1933, in relation to byelaws? Section 111 (4) of the Road Traffic Act, 1930, would not appear to apply. If a copy is not admissible, how can the order be proved? J. PTMW.

Answer.

We have found no provision to enable such an order to be proved except by production of the original order. The Regulation and Restriction of Road Traffic (Procedure) Provisional Regulations, 1934, are silent on the point, but they do require (reg. 7) the erection of such notices in such positions as may be approved by the Minister. It may be, on this, that the reasoning in *Boyd-Gibbons* v. *Skinner* [1951] 1 All E.R. 1049 might be applied by saying that the erection of the appropriate notices in the appropriate places is *prima facie* evidence that the proper steps had been taken and that the order had been duly made. We are by no means certain on this point, and, in any event, the exact terms of the order might be in question, and this would require its production.

15.—Witnesses—*Allowances to—Witness losing more than £1—The Witnesses Allowances Regulations*, 1948.

By reg. 3 of the above regulations, there may be allowed to a person attending to give evidence who loses wages, earnings or other income by attendance at court (not being a professional or expert witness) an allowance not exceeding 20*s.* a day in respect of that loss.

Is this 20*s.* the maximum allowable where a witness proves by a certificate from his employer that his maximum earnings for a lost day exceed the sum of 20*s.* SEY.

Answer.

In our opinion 20*s.* a day is an overriding maximum for all ordinary witnesses, even if they lose more by attendance.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. *(contd.)*

CITY OF PETERBOROUGH

Appointment of Junior Solicitor

SALARY on A.P.T. Grade VII. Good conveyancer and keen advocate required. The department includes the legal work of the police and education services and affords good opportunity for experience. Apply in concise form, giving names of two referees, by Wednesday, January 23.

C. PETER CLARKE,
Town Clerk.

Town Hall,
Peterborough.
January 2, 1952.

ADMINISTRATIVE COUNTY OF CAMBRIDGE

Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade VIII of the National Joint Council's Scale (£735-£810 per annum by annual increments of £25). Previous local government experience is not essential.

The appointment will be subject to the National Scheme of Conditions of Service, to the provisions of the Local Government Superannuation Act, 1937, and to the passing of a medical examination.

Applications, stating age, qualifications and experience, together with the names of two persons to whom reference may be made, should be received by the undersigned not later than January 26, 1952.

CHARLES PHYTHIAN,
Clerk of the County Council.

Shire Hall,
Cambridge.

COUNTY BOROUGH OF BURTON UPON TRENT

Town Clerk's Office—Legal Department

APPLICATIONS are invited from admitted or unadmitted men for appointment to a vacant post (A.P.T. Grade Va of the National Salary Scales, £600 to £660 per annum) in the Town Clerk's office. Applicants who are not qualified solicitors must have had extensive experience in conveyancing and drawing of leases, agreements, etc., and be capable of acting with nominal supervision.

The appointment will be terminable by one calendar month's written notice on either side and will be subject to the National Scheme of Conditions of Service and the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination by the Medical Officer of Health.

Applications, endorsed "Legal Appointment," stating age, particulars of present and previous appointments, education, qualifications and experience, together with copies of three recent testimonials must reach the undersigned not later than January 22, 1952.

Canvassing will disqualify.

H. BAILEY CHAPMAN,
Town Clerk.

Town Hall,
Burton upon Trent.

January 5, 1952.

COUNTY BOROUGH OF READING

Appointment of Female Probation Officer

THE Borough Probation Committee invite applications for the appointment of a whole-time female probation officer. The appointment will be subject to the Probation Rules, 1949 and 1950. The successful applicant will be required to pass a medical examination.

Applications, in the candidate's own handwriting, stating age, present position, qualifications and experience, together with the names of two persons to whom reference may be made, must reach the undersigned not later than Monday, January 28, 1952.

R. H. LANGHAM,
Secretary to the Probation Committee.

The Magistrates' Clerk's Office,
Valpy Street,
Reading.

COUNTY OF KENT

Appointment of Probation Officers

THE Kent Probation Committee invites applications for the appointment of whole-time male Probation Officers to serve in the Kent Probation Area.

The appointment will be subject to the Probation Rules, 1949 and 1950, and the salaries will be in accordance with the scale provided in the Rules. The appointments are superannuable.

Applicants must be qualified to deal with probation cases, matrimonial differences and other social work of the courts.

The selected candidates will be required to pass a medical examination.

Applications, stating age, experience and educational qualifications, together with copies of not more than three recent testimonials, should be sent to the undersigned within fourteen days of the appearance of this advertisement.

W. L. PLATTS,
Clerk of the Peace.

County Hall,
Maidstone

LANCASHIRE No. 9 COMBINED PROBATION AREA

Appointment of Female Probation Officer

APPLICATIONS are invited for the above whole-time appointment. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving officers, and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949 and 1950, and to the Local Government Superannuation Act, 1937, the successful candidate being required to pass a medical examination.

A car allowance or motor car will be provided.

Applications, stating age, qualifications and experience, together with the names and addresses of two persons to whom reference can be made should reach the undersigned not later than January 23, 1952.

G. S. GREEN,
Clerk to the Combined Committee.

County Magistrates' Court,
Strangeways,
Manchester, 3.

COUNTY BOROUGH OF HUDDERSFIELD

Assistant Solicitors

APPLICATIONS are invited for two posts of assistant solicitors in the office of the Town Clerk at salaries within Grade A.P.T. VII (£685 to £760 p.a.) according to experience. Applicants should be experienced in advocacy and/or conveyancing. Local government experience an advantage.

The appointments are superannuable. Housing accommodation available if required. Applications, stating age, whether married or single, with full details of experience and qualifications, accompanied by copies of not more than three recent testimonials, and endorsed "Assistant Solicitor" should reach me not later than January 28, 1952.

HARRY BANN,
Town Clerk.

Town Hall,
Huddersfield.

COUNTY OF KENT

Petty Sessional Division of Bromley

Appointment of Third Assistant Clerk

APPLICATIONS are invited for the appointment of a male third assistant to the Clerk to the Justices.

Applicants should have sound knowledge of magisterial law and practice and be capable of taking a court.

The commencing salary is £550 per annum.

Applications, stating age, present position and experience, together with two recent testimonials, should be sent to the undersigned not later than January 28, 1952. Envelopes should be marked "Assistant Clerk."

T. W. DRAYCOTT,
Clerk to the Justices.

The Court House,
South Street,
Bromley, Kent.

LANCASHIRE No. 6 COMBINED PROBATION AREA

Appointment of a Female Probation Officer

APPLICATIONS are invited for the above whole-time appointment.

The officer would be centred at Rochdale and assigned to the County Borough of Rochdale and Petty Sessional Division of Middleton.

Applicants must be not less than 23 years nor more than 40 years of age except in the case of a serving officer. The appointment will be subject to the Probation Rules, 1949-1950, and the salary will be in accordance with the prescribed scale and subject to superannuation deductions. The successful applicant may be required to pass a medical examination.

Applications, stating age, qualifications, experience and present salary (if already serving), accompanied by not more than two recent testimonials, should reach me not later than fourteen days after the publication of this advertisement.

J. FREER,
Clerk to the Combined Probation Committee.

Borough Justices' Clerk's Office,
The Butts, Rochdale.

Printed by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex, and published each Saturday by the Proprietors, Justice of the Peace Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex, England. Registered at the G.P.O. as a newspaper. Saturday, January 12, 1952. Price 2*s.* 3*d.* with Reports, post free 2*s.* 5*d.* ; without Reports 1*s.* 3*d.*, post free 1*s.* 5*d.* Subscription rates : £6 per annum with Reports ; £3 10*s.* per annum without Reports.